

ORIGINAL

EXHIBIT A *7*

MC-275

Name GREGORY L. BROWN  
 Address SATF - CORCORAN  
P.O. Box 5246  
CORCORAN, CA 93212  
 CDC or ID Number J-82241

ENDORSED  
 FILED  
 San Francisco County Superior Court

APR 25 2007

GORDON PARK-LI, Clerk  
 BY: JACQUES KHOROZIAN Deputy Clerk

Superior Court Of The State Of California  
City And County Of SAN FRANCISCO  
 (Court)

<u>GREGORY L. BROWN</u>	
Petitioner	vs.
<u>WARDEN, SATF-CORCORAN PRISON</u>	
Respondent	

## PETITION FOR WRIT OF HABEAS CORPUS

No. 5568  
 (To be supplied by the Clerk of the Court)

*Evidentiary Hearing Requested*

## INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

Page one of six

## This petition concerns:

- ☒ A conviction ☐ Parole  
☐ A sentence ☐ Credits  
☐ Jail or prison conditions ☐ Prison discipline  
☐ Other (specify): \_\_\_\_\_

1. Your name: GREGORY L. BROWN  
 2. Where are you incarcerated? SATF - CALIFORNIA STATE PRISON  
 3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

COUNT I, CONSPIRACY TO COMMIT MURDER  
COUNT II, ATTEMPTED MURDER

- b. Penal or other code sections: COUNT I 182.1, 187; COUNT II 664/187  
 c. Name and location of sentencing or committing court: SUPERIOR COURT of the City and County of SAN FRANCISCO, Hall of Justice, 830 Bryant St., S.F., CA 94103  
 d. Case number: No. 159271  
 e. Date convicted or committed: MAY 25, 1995  
 f. Date sentenced: OCTOBER 12, 1995  
 g. Length of sentence: 50 YEARS TO LIFE  
 h. When do you expect to be released? Immediately upon granting of this habeas  
 i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:  
STEPHEN ARMAN; P.O. Box 668; Kentfield, CA 94914

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

## 6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

GREG'S RIGHT TO A FAIR TRIAL AND DUE PROCESS, AS GUARANTEED UNDER THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED AS A RESULT OF HIS CONVICTION ON LESS THAN PROOF BEYOND A REASONABLE DOUBT OF EVERY ELEMENT OF THE CHARGED CRIMES.

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

NO RATIONAL TRIER OF FACTS COULD HAVE FOUND THE ESSENTIAL ELEMENTS OF THE CRIMES CHARGED AGAINST GREG, BEYOND A REASONABLE DOUBT.

ON MARCH 17, 1995, PROSECUTOR FLOYD ANDREWS FILED HIS INFORMATION IN THIS CASE. COUNT I OF THE INFORMATION ACCUSED GREG OF CONSPIRACY TO COMMIT MURDER (CT 1.) AND COUNT II ACCUSED HIM OF ATTEMPTED MURDER (CT 4.). THE INFORMATION ALLEGED THAT THE ATTEMPTED MURDER WAS WILLFUL, DELIBERATE, AND PREMEDITATED. (CT 5.) AS TO THE ATTEMPTED MURDER COUNT, THE INFORMATION ALSO ALLEGED THAT GREG PERSONALLY INFLICTED GREAT BODILY INJURY UPON ROBIN "WILLIAMS." (CT 5.) THE INFORMATION SET OUT 14 OVERT ACTS IN SUPPORT OF THE CONSPIRACY ACCUSATION, NAMING GREG IN ONLY FOUR OVERT ACTS (Nos. 2, 4, 5 AND 6.). (CT 1-4) OVERT ACT NO. 2 ACCUSED (SEE CONTINUATION, ADDITIONAL PAGE.)

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

IN RE WINSHIP, 397 U.S. 358 (1970); LEAVITT V. VASQUEZ, 875 F.2d 260 (1989) (9th Cir.);

Continuation Of "Ground I"; Page #2

1 GREG of taking a photo AND giving it to Wanda "FAIN";  
 2 No. 4 ACCUSED GREG of ACCOMPANYING FAIN to deliver a  
 3 NOTE; No. 5 ACCUSED GREG of ENCOURAGING FAIN AND  
 4 Joseph "Diggs" to murder Robin Williams; AND No. 6 ACCUSED  
 5 GREG AND FAIN of RESIDING AT 126 Blythdale. Overt Act  
 6 Nos. 2 AND 4 ARE meaningless IN the context of the  
 7 CONSPIRACY charge because there was NO EVIDENCE of ANY  
 8 AGREEMENT, BETWEEN GREG AND ANOTHER OR OTHERS  
 9 to commit murder. But, more importantly, those two  
 10 "acts" do NOT meet the legal requirement of an  
 11 "Overt Act." The jury made a determination that GREG  
 12 ENCOURAGED FAIN AND Diggs to murder Robin Williams  
 13 (Verdict, Overt Act No. 5), but there is NOT a shred of  
 14 admissible evidence presented at trial from which this  
 15 conclusion could logically be reached. And there was  
 16 NO finding of Overt Act No. 6.. (Verdict, Overt Act No. 6.)  
 17 There was NO sufficient evidence of an Overt Act  
 18 supporting the charge of conspiracy to commit murder.  
 19 The crime of conspiracy is defined in the California Penal  
 20 Code (Sec. 182, subd. (a)(1), 184) as two or more persons  
 21 conspiring to commit any crime, together with proof of  
 22 the commission of an Overt Act by ONE OR MORE of the  
 23 parties to such agreement in furtherance thereof.  
 24 Conspiracy is a specific intent crime. The specific  
 25 intent required divides logically into two elements  
 26 (a) the intent to agree, or conspire, AND (b) the intent

Continuation Of "Ground 1"; Page #3

1 to commit the offense which is the object of the conspiracy.  
 2 To sustain a conviction for conspiracy to commit murder,  
 3 the prosecution must show not only that the conspirators  
 4 intended to agree but also that they intended to kill  
 5 the victim.

6 The evidence introduced at trial, as it pertains to  
 7 GREG may be summarized as follows:

8 1.) He was arrested on January 6, 1995, at  
 9 126 Blythdale, while in possession of a handgun and  
 10 crack cocaine. Robin Williams made a statement to  
 11 police incriminating GREG.

12 2.) He was present when a purportedly threatening  
 13 note, written by co-defendant Wanda Fain, on paper from  
 14 a notebook belonging to Fain, was delivered to Williams.  
 15 The note came with a photograph of her taken by GREG  
 16 five years before.

17 3.) GREG and Williams met, and GREG agreed to  
 18 provide Williams unspecified remuneration if she would  
 19 refrain from testifying against him at an upcoming  
 20 preliminary hearing. The two resumed their previously  
 21 friendly relationship.

22 4.) GREG was present at 126 Blythdale on  
 23 February 7, until about 4:00 to 6:30 P.M. that evening.  
 24 Williams, Fain and Diggs left to take the bus about 7:30 P.M.

25 // //

26 // //

Continuation Of "Ground 1"; Page # 4

First, the January 6, arrest could only be considered on the issue of Greg's motive to commit the crimes alleged. (RT 347-348; 1213-1215.) Clearly, "motive" is not an essential element of either crime charged. Indeed, motive is different from intent (1 Witkin, California Criminal Law (2<sup>nd</sup> edition 1988), sec. 100, p. 118), and does not establish intent.

Second, the alleged threatening note was written by Fain on her paper. (RT 727-729, 935.) It was delivered about three weeks before the February 7, 1995 shooting of Williams. A reasonable trier of facts could infer that Greg was associated with the note, but it is not reasonable to interpret the note as evidencing an agreement between Fain and Greg to commit any crime, let alone an agreement to kill Williams. Furthermore, about a week and a half after Williams received the note, or about two weeks before February 7, 1995, Williams and Greg reconciled. (RT 520, 545-546, 557.) From that time forward, up to and including February 7, 1995, Williams visited with Greg every day or every other day. There is no evidence to suggest that these approximately seven to fourteen visits were anything but friendly. Indeed, Williams testified that Greg specifically indicated to her that he had no intention to hurt her. (RT 557.)

Third, given the evidence that Greg either lived at 126 Blythdale or was there often and Williams considered

Continuation Of "Ground 1"; Page #5

1 him her friend, nothing can be inferred from GREG's  
 2 PRESENCE AT OR ABSENCE from 126 Blythdale on the day  
 3 WILLIAMS WAS SHOT. WILLIAMS' trial testimony varied as to  
 4 WHEN GREG left on that day. (RT 547-530.) She also  
 5 testified that she did not remember when he left. (RT 551-  
 6 552.) At the MARCH 6, 1995 preliminary examination,  
 7 she testified that he left early, around 4:00 P.M.  
 8 (RT 547-549, 551.)

9 Nowhere in the record is there any evidence from which  
 10 A RATIONAL INFERENCE may be made that GREG agreed with  
 11 ANYONE to take Robin Williams' life, or to do her any harm  
 12 At all. There is no evidence which even arguably shows  
 13 that GREG had an intent to kill Williams. There is  
 14 no evidence linking GREG to any weapon associated with  
 15 the shooting of Williams. There is no other physical  
 16 evidence linking GREG to the shooting of Williams. There is  
 17 no evidence of any discussions among GREG, FAIR, AND  
 18 Diggs regarding killing Williams. There is no evidence  
 19 that GREG had any connection to the trip that FAIR, Diggs,  
 20 and Williams took to Third Street. And there is nothing  
 21 in the statements that FAIR and Diggs gave to the police  
 22 that connected GREG to the shooting of Williams.

23 The fact that GREG knew FAIR and perhaps Diggs is  
 24 not sufficient. Mere association is not enough to  
 25 establish the essential elements of either crime alleged.

26 1111

Continuation Of "Ground 1"; Page #6

1 As shown above, there is no evidence to support  
 2 the essential elements of the crime of conspiracy to  
 3 commit murder.

4 Even less evidence exists with respect to the finding  
 5 of the crime of attempted murder of Robin Williams.

6 Where, as here, the prosecution has charge the attempt  
 7 to be "willful, deliberate, and premeditated,"

8 it must adduce evidence from which it may be  
 9 rationally inferred that, "... the would-be slayer  
 10 (weighed and considered) the question of killing and the  
 11 reason for and against such choice and, having in mind  
 12 the consequences, decides to kill another human being."

13 CALTIC § 67.

14 No such evidence exists in the record. Nor is there  
 15 any evidence of the specific intent element needed to  
 16 satisfy the attempted murder requirement. Such intent  
 17 must be shown at the time of the overt act by which  
 18 the attempt is manifested; and it cannot be inferred  
 19 from the commission of another crime.

20 Another essential element of the crime of attempt  
 21 is the requirement of a direct but ineffectual act done  
 22 toward the commission of the act alleged. The act  
 23 must be overt and unequivocal; it must constitute the  
 24 beginning of the consummation of the attempted crime.

25 Preparation alone is not sufficient.

26 1111

Continuation Of "Ground I"; Page # 7

1 Just as there is no evidence to support the elements  
 2 of GREG's conspiracy to commit murder conviction of  
 3 Robin Williams, there is no evidence to support the  
 4 elements of his attempted murder conviction of her.  
 5 There is no evidence to support a finding that GREG  
 6 had a specific intent to kill Williams. There is  
 7 no evidence that GREG attempted a direct but  
 8 ineffectual act of killing Williams. There is no evidence  
 9 that GREG participated in the shooting of Williams,  
 10 directly or indirectly. There is no evidence that GREG  
 11 aided and abetted an attempt to kill Williams. There is  
 12 no weapon or physical evidence linking GREG to the shooting  
 13 of Williams. There is no evidence that GREG even  
 14 suspected that FAIN, Diggs or anyone else had any  
 15 criminal intent towards Williams, and certainly no  
 16 evidence that he shared in any criminal intent toward her.  
 17 Furthermore, just as the note cannot support the  
 18 conspiracy conviction, it cannot support the attempted  
 19 murder conviction. GREG's presence when FAIN  
 20 delivered the note cannot be interpreted as providing  
 21 encouragement to FAIN, Diggs, or anyone else to shoot  
 22 Williams three weeks later; and the reconciliation  
 23 between Williams and GREG are irreconcilable with a  
 24 finding that GREG advised or encouraged the attempted  
 25 murder of Williams. Williams and FAIN reconciled also.  
 26 (RT 546-556.) Even putting aside the reconciliation

Continuation Of "Ground 1"; Page #8

1 of Williams with FAIN and GREG, the attempted murder of  
2 Williams was not a reasonably foreseeable consequence of  
3 GREG's standing on a porch while FAIN delivered a note and  
4 photograph to Williams.

5 Nonetheless, motive cannot supply the specific intent  
6 elements of attempted murder. Nor can association establish  
7 either the requisite encouragement or intent to kill.

8 Nor can GREG's brief presence at 126 Blythdale on the day  
9 of the shooting establish either the requisite encouragement  
10 or intent to kill, particularly, in light of the evidence  
11 that he either frequent or lived there.

12 A microscopic examination of the trial transcript  
13 fails to reveal ANY evidence from which a reasonable  
14 person could make a rational inference establishing any  
15 of the elements of conspiracy to commit murder and  
16 attempted murder.

17 GREG's convictions for conspiracy to commit murder  
18 and attempted murder based on absent and/or less than  
19 proof beyond a reasonable doubt of every element of  
20 the accused crimes violated his right to a fair trial  
21 and due process under the Fifth and Fourteenth  
22 Amendments of the United States Constitution.

23 Based on the above, the court must grant habeas  
24 relief to GREG and enter a judgment of acquittal.

25 Acquittal is required because, at the close of the  
26 prosecution's case-in-chief, the trial court improperly

Continuation Of "Ground I"; Page #9

1 denied Green's California Penal Code sec. 1118.1 motion for  
2 judgment of acquittal. (CT 48, 55; RT 1031-1037.)

3 REVERSAL ALONE IS NOT AN ADEQUATE REMEDY BECAUSE A RETRIAL  
4 COULD THEN RESULT, WHICH WOULD VIOLATE THE STATE AND  
5 FEDERAL CONSTITUTIONAL PROHIBITIONS AGAINST DOUBLE JEOPARDY.

7. Ground 2 or Ground 2 (if applicable): "Ground 2"; Page #1

GREG's right to a Fair Trial and Due Process, as guaranteed under the Fifth and Fourteenth Amendments of the United States Constitution, was violated when the prosecutor maliciously and intentionally introduced false and unsupported and deceitful material statements at trial.

a. Supporting facts:

It was prosecutorial misconduct and malicious prosecution for Floyd "Andrews," a former San Francisco prosecutor, to introduce false and unsupported and deceitful material statements at trial to acquire GREG's convictions for conspiracy to commit murder and attempted murder.

Prosecutor Andrews' false and unsupported material statements in his "Closing Arguments" at trial were so improper that it infected the trial with unfairness as to make GREG's convictions a denial of due process and a fair trial. In closing, Andrews told the jury that Wanda Fain wrote the note "for Gregory Brown," (RT 1349.) and "... he (GREG) can get her (Robin Williams) out to Terold Avenue and shoot her and leave her dead through the other two (Wanda Fain and Joseph Diggs)." (RT 1349.) Andrews further repeatedly exhorted the jury to bring in a "guilty" verdict, not based on the evidence, but "because (SEE Continuation; Additional Page)

Supporting cases, rules, or other authority:

Darden v. Wainwright, 477 U.S. 168 (1986); Becht v. Abrahamson, 509 U.S. 619 (1993); Donnelly v. DeChristoforo, 416 U.S. 637 (1974); In re Winship, 397 U.S. 358 (1970); Berger v. United States, 295 U.S. 78 (1935); Miller v. Pate, 386 U.S. 1 (1967)

Continuation Of "Ground 3"; Page #2

1 they did it." (RT 1350) The trial record is devoid  
 2 of any evidence to support any of those accusations.  
 3 There was no evidence introduced at trial that showed  
 4 Fain wrote the note "for Gregory Brown." There was  
 5 no evidence introduced at trial that showed Greg had  
 6 any connection to the trip that Fain, Diggs and Williams  
 7 took to Jerrold Avenue. There was no evidence  
 8 introduced at trial from which a rational inference may  
 9 be made that Greg agreed with Fain, Diggs or anyone  
 10 else to take Robin Williams' life, or to do her any harm  
 11 at all. And nowhere in the trial record is there any  
 12 evidence as to who actually shot Williams.

13 As demonstrated above, not only did Andrews  
 14 failed to limit the scope of his closing arguments  
 15 to the evidence presented at trial but he also  
 16 deliberately and consciously introduced numerous false  
 17 and unsupported material statements which rested  
 18 exclusively on the issue of guilt. Additionally,  
 19 Andrews' exhortations of the jury to bring in a "guilty,"  
 20 verdict, by any means other than the evidence, "because  
 21 they did it" amount to malicious prosecution and  
 22 several instances of prosecutorial misconduct because:  
 23 (1) it was contrary to the evidence presented at trial;  
 24 (2) it was an injection of his personal opinion or belief;  
 25 (3) it influenced and inflamed the jury's prejudices  
 26 against Greg; (4) it encouraged the jury to

Continuation Of "Ground 2"; Page #3

1 disregarded the court's instructions concerning innocence  
2 and guilt; and (5) it diverted the jury's attention from  
3 its duty to decide the case on the merit of the evidence  
4 presented at trial.

5 But, just as equally prejudicial, it negated the  
6 fact that other people could have been responsible for  
7 the shooting of Robin Williams. On cross-examination,  
8 Williams was questioned about various persons who might  
9 bear ill will towards her. In January 1994, just a  
10 year prior to her shooting, Robin Williams was convicted  
11 of a residential burglary, and named three black males  
12 who were also involved. (RT 573, 587-588, 641.)

13 After that burglary, Corky, the boyfriend of the woman  
14 whose house she had burglarized, beat her up. (RT 583.)  
15 Williams had also incurred drug debts in the past.

16 (RT 576, 580.) However, she denied having any drug  
17 debts on February 7, 1995, and did not remember ever  
18 being threatened by drug dealers to whom she owed  
19 money. (RT 576, 580, 582.) She said that she knew  
20 Irwin Berry at Sunnydale, but did not remember him  
21 hitting her with a gun because of some debts she owed  
22 him. (RT 582.) She specifically denied owing any  
23 money to a man named "Tails" from the Sunnydale Area,  
24 and said that she did not remember him coming up to  
25 her the night before February 7, 1995 and pointing a  
26 gun at her. (RT 581-582.) However, Daphne Hayes

Continuation Of "Ground 2"; Page #4

1 testified that she was talking on the telephone with a  
 2 friend at her home in the Sunnydale Projects on the  
 3 afternoon of February 6, 1995 when the friend said,  
 4 "Oh, my God, Tails pulled a gun on Robin." Robin  
 5 referred to Robin Williams. (RT 1005.) Hayes also  
 6 testified that sometime during the last couple of months  
 7 Phoebe's apartment at 56 Santos had caught on fire.  
 8 Williams and Phoebe were once roommates at 56 Santos.  
 9 (RT 1005-1006.) Over the years, Williams had gotten  
 10 into fights at Sunnydale. (RT 584-585.) Williams  
 11 admitted that she might have some enemies around  
 12 the city. (RT 586.)

13 Andrews' false and unsupported material statements  
 14 implanted in his closing arguments, whether individually  
 15 or collectively, so infected the trial outcome as to  
 16 create a genuine effect on the jury's verdict, especially  
 17 when considering the fact that the trial judge did not  
 18 instruct the jury to disregard the improper statements.  
 19 There is absolutely no way a rational jury could have  
 20 found Greg guilty of the crimes accused absent the  
 21 mentioned statements in Andrews' closing.

22 Prosecutor Andrews' intentional and malicious use  
 23 of false and deceitful material statements in his  
 24 "Opening Statements" at trial were so improper  
 25 that they infected the trial with unfairness as  
 26 to make Greg's resulting convictions a denial of due

Continuation Of "Ground 2"; Page #5

1 process and a fair trial. Andrews' opening statements  
 2 alleged, "She (Robin Williams) was shot because she made  
 3 a statement to the police about GREGORY BROWN, about  
 4 him selling drugs, about him having a gun. She was shot  
 5 to punish her for that statement and to prevent her from  
 6 testifying in future court appearances." (RT 314.)

7 Andrews failed to introduce any evidence at trial as to  
 8 why Robin Williams was shot. Andrews introduced no  
 9 evidence that Williams was shot because she made a  
 10 statement to the police "about GREGORY BROWN." Andrews  
 11 introduced no evidence that Williams was shot because her  
 12 statement mentioned GREG "selling drugs." Andrews  
 13 introduced no evidence that Williams was shot because  
 14 her statement mentioned GREG "having a gun." Andrews  
 15 introduced no evidence that Williams "was shot to  
 16 punish her for that statement" to the police.

17 Andrews introduced no evidence that Williams was shot  
 18 "to prevent her from testifying in future court  
 19 appearances." Furthermore, Andrews completely  
 20 failed to introduce any evidence at trial as to why  
 21 Williams was shot, and there was no trial evidence  
 22 as to why.

23 Moreover, Robin Williams' trial testimony totally  
 24 contradicted the improper statements given by Andrews in  
 25 his opening statements, while at the same time  
 26 exonerating GREG on all charges relating to her shooting.

Continuation Of "Ground 2"; Page #6

Williams testified at trial that on January 6, she was visiting Greg at 126 Blythdale, when the police came. She saw a gun in Greg's hand and a bag of crack in the other. (RT 511.) She made a statement to the police as to what she saw. (RT 513.) Some days later she was at a friend's house when Wanda "Fain" delivered a note to her, that included a photo of her taken some years before by Greg. Greg was nearby when the note was delivered, standing outside on a porch. (RT 515.) Fain said Greg wanted to talk to her. (RT 517.) She did not speak to Greg because she considered the note threatening and was scared. (RT 518.) About a week and a half later, she met Greg on the street and they spoke. He asked her to stay out of sight, and not to testify at his upcoming hearing, and in return he "would take care of" her as long as she didn't testify. (RT 519.) She was satisfied with the conversation and returned to her regular visits to 126 Blythdale, going there about every other day. She went there to talk to Greg and they were friends. (RT 520.) Greg never threatened her, and she believed he had no intention of hurting her. (RT 557.)

Andrews was aware that Williams would testify as she did, because it was relatively a recital of her preliminary hearing testimony. (RT 11-16; 51-52.) Nevertheless, Andrews deliberately, consciously and

Continuation Of "Ground 3"; Page # 7

1 maliciously used false and deceitful material statements  
2 in his opening statements to manipulate the jury.

3 This fact is highlighted by Andrews' calculated  
4 (and successful) efforts to paint GREG AS A HEARTLESS  
5 dope dealer who has previously captured and corrupted  
6 the victim, Robin Williams. Thus, for example, in his  
7 opening statements Andrews said:

8 "Robin is going to tell you that she is addicted  
9 to COCAINE, that she had been supplied  
10 COCAINE by GREGORY BROWN AND OTHER PEOPLE  
11 .... That she did a lot of things to  
12 get her poison. She'd go to GREGORY BROWN  
13 AND get drugs there. She's traded drug  
14 for sex with Mr. Brown."

15 (RT 315, line 28; 316, line 1-7.) Of course, there was  
16 NO EVIDENCE adduced at trial to support this assertion.  
17 Absent the maliciously false and deceitful statements  
18 embedded in Andrews' opening statements, NO RATIONAL  
19 jury could have reached a guilty verdict against GREG  
20 because there was simply NO EVIDENCE introduced at  
21 trial connecting him to the shooting of Robin Williams.  
22 Indeed, the improper statements created such a  
23 substantial and injurious effect on the jury's decision  
24 AS TO RENDER GREG'S CONVICTIONS UNCONSTITUTIONAL.

25 / / / /

26 / / / /

/ / / /

Continuation Of "Ground 2"; Page #8

1 GREG'S right to a fair trial and due process, under  
2 the Fifth and Fourteenth Amendments of the United  
3 States Constitution, was violated as a result of several  
4 instances of prosecutorial misconduct as set forth herein.

5 Based on the above, the Court must grant VAZENS  
6 relief to GREG on this ground and enter a judgment  
7 of acquittal because there is no evidence to support  
8 a re-trial.

7. Ground 2 or Ground 3 (if applicable):

"Ground 3"; Page #1

GREG'S RIGHT TO A FAIR TRIAL AND IMPARTIAL JURY, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION WAS VIOLATED WHEN JURORS GAVE INTENTIONALLY FALSE ANSWERS DURING VOIR DIRE AND/OR COVERED UP FALSE STATEMENTS GIVEN THEREIN.

a. Supporting facts:

IN THE PRESENT CASE, JURORS COMMITTED MISCONDUCT WHEN THEY INTENTIONALLY GAVE FALSE ANSWERS DURING VOIR DIRE OR COVERED UP FALSE STATEMENTS GIVEN THEREIN WHICH VIOLATED GREG'S RIGHT TO DUE PROCESS, A FAIR TRIAL, AN UNBIAS JURY, CONFRONTATION, AND A VERDICT BASED ON ADMISSIBLE TRIAL EVIDENCE, AS GUARANTEED BY THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

DURING VOIR DIRE, MR. FUETSCH, DEFENSE COUNSEL FOR CO-DEFENDANT WANDA FAIR, ASKED THE JURY: "DOES ANYONE HAVE A PROBLEM OR WOULD THEY HAVE A PROBLEM WITH FOLLOWING THE INSTRUCTIONS OF THE COURT EVEN IF THE RESULT THAT WOULD BE REACHED BY FOLLOWING INSTRUCTIONS OF THE COURT WERE CONTRARY TO YOUR GUT REACTION IN A CASE AS SERIOUS AS THE ONE THAT'S CHARGED HERE?" (RT 132, LINES 3-8) THE ONLY JUROR WHO INDICATED HE WOULD HAVE A PROBLEM WITH FOLLOWING THE COURT'S INSTRUCTIONS IS JUROR JOHN ELWOOD. (RT 132-133 (FROM LINE 3 OF 132 TO LINE 13 OF 133); 142-143 (FROM LINE 11 OF 142 TO LINE 28 OF 143); 158-159, LINE 28-13).

DURING VOIR DIRE, MR. ZILVERSMIT, DEFENSE COUNSEL FOR CO-DEFENDANT JOSEPH DIGGS, ASKED JURORS MR. CASTILLO, MS. OWENS, MS. SMITH, AND  
(SEE CONTINUATION ADDITIONAL PAGE)

b. Supporting cases, rules, or other authority:

TWIN V. DAWD, 366 U.S. 717 (1961); BRECHT V. ABRAHAMSON, 509 U.S. 619 (1993); DONNELLY V. DE-CRISTOFORO, 416 U.S. 637 (1974);  
IN RE WINSHIP, 397 U.S. 358 (1970); CARTER V. KENTUCKY, 450 U.S. 288;

Continuation Of "Ground 3"; Page # 2

Mr. Bowen if they heard the judge's instruction on the presumption of innocence and whether they would be able to vote not guilty assuming there was no evidence to the contrary; each juror indicated they would. (RT 136-137.)

Mr. Ziversmit also asked the jury if they would be able to vote not guilty if the prosecution failed to produce evidence of the defendants' guilt beyond a reasonable doubt; none of the jurors indicated to the contrary. (RT 140-141.)

During voir dire, Mr. Arlan, Greg's trial defense counsel, asked the jury if any of them are confused about the "difference between a mere suspicion, a creating of a suspicion and creating evidence that convinces beyond a reasonable doubt"; none of the jurors indicated confusion. (RT 147.)

As demonstrated in the excruciating declarations of jurors John Elwood, juror Karen Pemberton, and Maggie Richard, Greg's trial defense investigator, the jury failed to answer questions honestly during voir dire regarding whether or not they would follow the court's instructions.

1 Following the verdicts, all the defendants, including  
 2 Greg, filed motions for new trial, alleging among other  
 3 things, jury misconduct during deliberation. However,  
 4 this Ground, as well as all other Grounds set forth in these  
 5 papers, was not raised in the motions for new trial by  
 6 defense counsels nor on direct appeal.

Continuation Of "Ground 3"; Page #3

Juror Karen Pemberton, in her declaration given to counsel for co-defendant Joseph Diggs states among other things:

During deliberations, a juror had a bus schedule with them. We looked at the schedule and we talked about how long the bus ride took, when they (Robin, Sarah & Joseph) got on the bus, and how long it took to get where they were going...

When we went into the jury after arguments, some people were saying "they don't have a case." I originally believed they were talking about the prosecution. But later, I realized that more than half of the jurors were talking about how the defense had not proven their case.

(CT 453-454.) The clear import of this discussion between jurors is that they did not apply the court's instruction on the burden of proof in a criminal case.

(CALJIC Nos. 2.61, 2.90, 2.91; CT 334, 340-341; RT 1219, 1222-1223. Also, see, RT 93-94.) Juror Karen P. also advised Maggie Richards, Green's investigator, that "a couple" of jurors commented on Green's failure to testify in his own defense being an indication of his guilt. (See Maggie Richards' sworn declaration at, CT 473-474.)

The instructions placing the burden of proof on the prosecution are grounded in the Due Process Clause of the Fourteenth Amendment of the United States Constitution and play a vital role in the American scheme of criminal

Continuation Of "Ground 3"; Page #4

1 procedure. The jurors clearly disobeyed the court's  
 2 instructions regarding burden of proof when, according to  
 3 the declaration of juror KAREN P. more than half the  
 4 jurors said, during deliberations, that the defense had  
 5 not proven their case. There is nothing in the record  
 6 to suggest that the credibility of KAREN P.'s declaration  
 7 on this issue was questioned, and it certainly was not  
 8 countered. There is no case law or other authority that  
 9 GREG is aware of that states that the declaration of a  
 10 single juror cannot establish misconduct, that offending  
 11 jurors must be identified by name, or that all twelve  
 12 jurors must disobey court instructions in order to  
 13 establish misconduct. Indeed, one juror is enough.

14 The instruction that no inference is to be drawn  
 15 from a defendant's failure to testify is grounded in  
 16 the Fifth and Fourteenth Amendments of the United States  
 17 Constitution. The jury was instructed as follows:

18 "A defendant in a criminal trial has a constitutional  
 19 right not to testify. You must not draw any  
 20 inference from the fact that a defendant does not  
 21 testify. Further, you must neither discuss this matter  
 22 nor permit it to enter into your deliberation in any  
 23 way." (CALJIC 2.60; CT 333; RT 1219.) The jurors  
 24 misconduct in disobeying this instruction was inherently  
 25 and substantially likely to have influenced and biased the

26 / / / /

Continuation Of "Ground 3"; Page #5

involved jurors so as to prejudice GREG.

There are hardly two matters more basic to a fair jury trial than the principles embodied in the instructions referred to above.

JUROR John Elwood, in his declaration given to counsel for co-defendant Joseph Diggs states under oath among other things:

During our deliberations we prepared a time line... for the evening of the incident. We were particularly concerned with the period between 7:30 pm and 8:35 pm on the night of the shooting. To help reconstruct what happened during that period, we consulted bus schedules that jurors Alvin Bernstein and Monnell Beurmann brought in on the second day of deliberations. These schedules provided us information about the intervals between buses and the frequency with which buses came; this information along with court testimony and statements helped us to fill in our time line from 7:30 pm until 8:35 pm on the night of the shooting...

There was also discussion about access to guns which was in reference to defendant GREG BROWN'S prior arrest.

There were also discussions about defendant GREG BROWN being a drug dealer and his propensity for violence and drugs and that kind of lifestyle. This was mostly in reference to defendant BROWN'S state of mind.

Continuation Of "Ground 3"; Page #6

Some jurors also discussed that as a drug dealer, Brown's state of mind may be twisted, and power hungry. Some jurors also discussed that as a drug dealer, Brown might feel that there would be no consequences to his actions if he killed Robin Williams. The jurors who brought up discussions of def. Brown's lifestyle were reminded by other jurors that this line of discussion was speculation and could not be considered in deliberations.

Someone also made reference to the fact that if you do crack cocaine, it does not mean you lose your memory.

(CT 451-452.) This statement taken on its face is clearly juror bias of the worst sort in and of itself. Nonetheless, juror Jordan Owens corroborated the fact that jury did in fact disregard and disobeyed the court's instructions and considered the seizure of a gun and drugs from defendant Gregory Brown as evidence of his guilt in the charged crimes. (Declaration of Maggie Richards At, CT 473-474.)

Early in the prosecution case, the trial court gave the following limiting instruction to the jury regarding the evidence seized during the January 6, 1995 arrest of Greg. The court admonished:

[T]he evidence or testimony that's being received at this point regarding the gun and cocaine seized at 126 Blythdale on January 26<sup>th</sup> [sic], 1995, in the presence of Mr. Brown is being offered only to show motive for Mr. Brown to

Continuation Of "Ground 3"; Page #7

1 from Mr. Williams. You may not consider this  
 2 evidence for ANY other purpose at this time.

3 (RT 347-348.) After the completion of the presentation of all  
 4 of the evidence, the court gave the jury the following  
 5 instructions:

6 Evidence was introduced of an arrest on  
 7 January 6, 1995 of defendant Gregory Brown  
 8 and seizure of guns and drugs from the premises  
 9 of 126 Blythdale. This evidence was admitted and  
 10 may be considered by you only for the purpose of  
 11 showing a possible motive for the commission of the  
 12 crimes charged. You're to consider this evidence  
 13 only for the purpose of determining whether such  
 14 motive exists and for no other purpose. Such  
 15 evidence, if believed, was not received and may  
 16 not be considered by you to prove that defendant  
 17 Gregory Brown is a person of bad character or  
 18 that he has a disposition to commit crimes. Such  
 19 evidence was received and may be considered by you  
 20 only for the limited purpose of determining if  
 21 it tends to show a motive for the commission  
 22 of the crimes charged. For the limited purpose  
 23 for which you may consider such evidence, you  
 24 must weigh it in the same manner you do all  
 25 other evidence in this case. You're not permitted  
 26 to consider such evidence for any other purpose.

27 Evidence that a gun was seized on January 6th,  
 28 1995, may not be considered by you to infer or  
 29 prove that any of the defendants had a gun on  
 30 February 7th, 1995, when Robin Williams was shot.

31 Certain evidence was admitted for a limited purpose.  
 32 At the time this testimony was admitted you were  
 33 admonished it could not be considered by you for  
 34 for any purpose other than the limited purpose for  
 35 which it was admitted. Do not consider such evidence  
 36 for any purpose except the limited purpose for  
 37 which it was admitted.

Continuation Of "Ground 3"; Page # 8

(RT 1213-1215.) These instructions were also provided to the jury in written form during their deliberations. (CT 306, 318-320, 323.)

Jurors clearly disregarded and disobeyed these instructions. Far from limiting their consideration of the evidence of the gun and cocaine to the issue whether Green had a motive to harm Williams, jurors discussed that the January 6, 1995 gun and cocaine evidence showed that Green had "access to guns," was "a drug dealer," had a "propensity for violence and drugs," had a "twisted and power hungry state of mind," and felt that "there would be no consequences to his actions if he killed Robin Williams." The fact that some jurors reminded other jurors not to consider this line of discussion does not indicate whether any or all of the improper discussion ceased, and there is no indication that the reminder was given by the jury foreman or otherwise carried special authority. And the reminder could not erase the previous improper discussion. The record is without any contradictory declarations on this issue. Nor is there any indication in the record that the prosecutor or the trial court questioned the credibility of juror John Elwood's declaration on this subject.

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Continuation Of "Ground 3"; Page # 9

The declaration of GREG's trial defense investigator, Maggie Richards, states, among other things:

On May 30, 1995, I spoke with juror KAREN Pemberton by telephone. At that time, she told me she heard "a couple" jurors discussing the fact that defendant Gregory Brown did not testify in his own defense, and that this was an indication of guilt.

On May 30, 1995, I spoke with juror Alvin Bernstein by telephone. He told me that in jury deliberations ... jurors did consult maps and bus schedules.

On May 30, 1995, I spoke with juror Jordan T. Owens by telephone. She told me that the jury considered as evidence of one of defendants having shot the victim that there were guns in Gregory Brown's car, and that he was a drug dealer.

(CT 473-474.)

The sworn declarations of jurors John Elwood and Karen Pemberton and that of investigator Maggie Richards, demonstrate that the jurors consulted bus schedules and/or maps during deliberations. The record shows that neither were admitted into evidence at trial. It is juror misconduct to consider and discuss "evidence" other than that which was received at trial, whether a juror acted intentionally or inadvertently in being exposed to the outside source of information.

The jurors were also specifically instructed:

You must decide all questions of fact in this case from the evidence received in this trial and not from any other source...

Continuation Of "Ground 3"; Page #10

1 You must not make any independent  
 2 investigation of the facts... NOR consider  
 3 NOR discuss facts as to which there's NO  
 EVIDENCE.

4 (CALJIC 1.03; CT 313; RT 1210.) Clearly, the jurors use  
 5 of the bus schedules constituted misconduct.

6 Timing was an important issue in this case. The  
 7 prosecution theory was that Fain, Diggs and Williams left  
 8 126 Blythdale at around 7:30 p.m., walked to the bus stop,  
 9 waited for the bus, rode the bus for twenty to twenty five  
 10 minutes, and walked a block and a half, before co-defendants  
 11 Fain and Diggs shot Williams. The wounded Williams was first  
 12 discovered around 8:30 p.m. There is no evidence that Fain or  
 13 Diggs were anywhere in sight at that time. Given all of this,  
 14 plus the co-defendants' denial of any involvement in Williams'  
 15 shooting, the expert witness evidence regarding Williams' memory  
 16 problems, and the defense theories that third parties were  
 17 responsible, the jury plainly had a question as to whether  
 18 all that Williams described could have happened within  
 19 the one hour time period. Thus, they obviously felt a need  
 20 to fill in important gaps in the prosecution case time line,  
 21 and used the bus schedules to do so. Inasmuch as Greg's  
 22 culpability as a conspirator rested on the jury's  
 23 evaluations of the actions of Fain's and Diggs and on the  
 24 credibility and reliability of Williams' testimony, the  
 25 jury's consultation of the bus schedules to bolster the  
 26 prosecution's case was prejudicial to Greg.

Continuation Of "Ground 3"; Page # 11

1 The sworn declaration of juror John Elwood makes clear  
 2 that a juror injected his own outside expertise into deliberations.  
 3 The comment of a juror that if you do crack cocaine it does not  
 4 mean you lose your memory is also misconduct. The relationship  
 5 between crack cocaine use and memory loss is not a subject of  
 6 commonplace knowledge. Moreover, the juror comment is not  
 7 a reasonable interpretation of expert witness psychiatrist  
 8 Eugene Schoenfeld trial testimony. (RT 932-935.) The juror  
 9 who made the comment regarding cocaine and memory was,  
 10 clearly relying on first hand experience, observation, or study.  
 11 As such, his comment injected his outside expertise into the  
 12 deliberations, which constituted misconduct.

13 Here, the evidence is so very slim against Greg, non-  
 14 existent by most standards, that a very minimal amount of  
 15 error can have a substantial weight in affecting the verdict.  
 16 All that ties Greg to the shooting of Robin Williams is, the  
 17 January 6 arrest, and his connection to the delivery of a  
 18 purportedly threatening note. Other than his presence earlier  
 19 in the day, there is nothing connecting Greg to the events  
 20 leading up to Williams' shooting. Absent the varieties of jury  
 21 misconduct in this case, no trier of facts could have  
 22 found Greg guilty of the crimes charged.

23 As stated herein, the defense counsels explicitly asked  
 24 the jury material questions during voir dire which the  
 25 jury intentionally failed to respond honestly to; specifically,  
 26 the jury concealed their unwillingness to (1) follow the court's

Continuation Of "Ground 3"; Page #12

1 instructions; (2) give the defendants, particularly GREG, the  
 2 presumption of innocence; (3) vote not guilty if the  
 3 prosecution failed to produce evidence of the defendants' guilt  
 4 beyond a reasonable doubt; AND (4) ASCERTAIN the  
 5 "difference between a mere suspicion, a creating of a  
 6 suspicion AND creating evidence that convinces beyond a  
 7 REASONABLE doubt." (RT 132; 136-137; 140-141; 147. Also,  
 8 see, this Ground AT pages 1 & 2.)

9 The jury's failure to respond honestly to the defense  
 10 counsels' questions during voir dire violated GREG's right to a  
 11 fair trial, an impartial jury, due process, confrontation,  
 12 AND A VERDICT BASED ON ADMISSIBLE trial evidence under the  
 13 Fifth, Sixth AND Fourteenth Amendments of the United  
 14 States Constitution; AND was the direct cause of the  
 15 violation set forth in Ground 1.

16 BASED ON THE ABOVE, THE COURT must grant habeas  
 17 relief to GREG on this ground along with any other  
 18 relief the Court deems fair and just.

7. Ground 2 or Ground 4 (if applicable): "Ground 4"; Page #1

GREG'S RIGHT TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED WHEN COUNSEL FAILED TO: CHALLENGE OVERT ACTS; OBJECT TO FALSE AND UNSUPPORTED MATERIAL STATEMENTS AT TRIAL; AND USE PREEMPTORY CHALLENGE TO EXCUSE A BIAS JUROR.

a. Supporting facts:

TRIAL COUNSEL'S FAILURE TO MAKE AN OBVIOUS CHALLENGE OF OVERT ACTS CONSTITUTES INEFFECTIVE TRIAL REPRESENTATION.

TRIAL COUNSEL FAILED TO CHALLENGE THE VALIDITY AND THE LEGALITY OF THE OVERT ACTS IN HIS MOTION TO DISMISS (CALIF. PENAL CODE SEC. 995 MOTION). (CT 70, 152; RT 27.) TO SUPPORT A CRIME OF CONSPIRACY, THE PROSECUTION MUST PROVE THE COMMISSION OF AN OVERT ACT BY ONE OR MORE OF THE PARTIES ENGAGED IN THE AGREED UPON CONSPIRACY. IN THIS CASE, ONLY FOUR OVERT ACTS IN SUPPORT OF THE CONSPIRACY WAS RELATED TO GREG. (Nos. 2, 4, 5, AND 6.). OVERT ACT No. 2 ALLEGED THAT GREG. TOOK A PHOTO AND GAVE IT TO WANDA FAIR; No. 4 ALLEGED THAT GREG. ACCOMPANIED FAIR TO DELIVER A NOTE; No. 5 ALLEGED THAT GREG. ENCOURAGED FAIR AND JOSEPH DIGGS TO MURDER ROBIN WILLIAMS; AND No. 6 ALLEGED THAT GREG. AND FAIR RESIDED AT 126 BLYTHDALE. (CT 1-4.) AS STATED IN "GROUND 1" AND SUPPORTED BY THE RECORD, THERE WAS NO FINDING OF OVERT ACT No. 6; NO EVIDENCE TO SUPPORT No. 5; AND Nos. 2 AND 4 FAIL BECAUSE (1) THERE IS NO EVIDENCE OF AN AGREEMENT  
(SEE CONTINUATION, ADDITIONAL PAGE)

b. Supporting cases, rules, or other authority:

STICKLAND V. WASHINGTON, 466 U.S. 668 (1984); BRECHT V. ABRAHAMSON, 507 U.S. 619 (1993); DONNELLY V. DECHRISTOFORO, 416 U.S. 637 (1974);

Continuation of "Ground 4"; Page #2

1 between Green and ANYONE to commit murder and (2) they  
2 do not meet the legal requirement of an overt act.

3 In light of the fact that Green pled not guilty to the  
4 crimes accused (CT 9-11), any reasonably effective  
5 counsel would have moved to challenge all evidence against  
6 his client in which the prosecution relies upon to obtain a  
7 conviction. It is reasonable to assume that had counsel  
8 challenged the overt acts, the prosecution would have  
9 been forced to produce sufficient evidence to support each  
10 act or run the risk of having one or more acts dismissed.

11 As shown herein, the mentioned overt acts were either not  
12 acts in and of themselves or unsupported or lacked  
13 finding. Therefore, had counsel challenge the overt acts,  
14 it is more than likely that one or more or all of the acts  
15 would have been dismissed which would have further weakened  
16 the prosecution's case or resulted in the entire case against  
17 Green being dismissed, because, the essence of a conspiracy  
18 lies within the commission of an overt act.

19 Here, the prosecution's case against Green is non-existent  
20 by most standards, therefore, a minimal of error such as  
21 the failure to challenge the overt acts contributed to and  
22 proximately caused the subjection of Green to an unfair trial,  
23 a bias jury, prosecutorial misconduct, and a conviction on  
24 less than proof beyond a reasonable doubt. Counsel's failure  
25 to challenge the overt acts in question amount to  
26 defective and ineffective representation.

Continuation of "Ground 4"; Page # 3

1 Trial counsel's failure to make meritorious objections to  
 2 false and unsupported material statements at trial constitutes  
 3 ineffective trial representation.

4 As stated in "Ground 2" and supported by the record,  
 5 in closing arguments, the prosecutor told the jury that  
 6 Lurinda Fain wrote the note "for Gregory Brown," (RT 1349.)  
 7 and "... he (Greg) can get her (Robin Williams) out to  
 8 Jerold Avenue and shoot her and leave her dead through  
 9 the other two (Fain and Joseph Diggs)." (RT 1349.)

10 The prosecutor further repeatedly exhorted the jury to bring  
 11 in a "guilty" verdict, not based on the evidence, but  
 12 "because they did it." (RT 1350.) There was not a  
 13 scintilla of evidence presented at trial that supports  
 14 any of those false material statements. Any reasonably  
 15 effective counsel would have fervently objected to each  
 16 and every one of those improper statements, particularly,  
 17 in light of the fact that closing arguments are limited  
 18 to the issue in the case and the evidence that has been  
 19 presented. Counsel's non-objections to the false and  
 20 unsupported material statements allowed the prosecutor  
 21 to: (1) argue facts that are not supported by the  
 22 evidence in the record; (2) inject his personal beliefs  
 23 and opinions; (3) influence and inflame the jury's  
 24 prejudices against Greg; (4) encourage the jury to  
 25 disregard the court's instruction regarding innocence  
 26 and guilt; and (5) divert the jury's attention from

Continuation Of "Ground 4"; Page #4

1 its duty to decide the case on the merit of the evidence  
 2 presented at trial. Moreover, counsel's non-objections gave  
 3 credence to the prosecutor's baseless opening statements.

4 Had counsel objected to the improper statements,  
 5 the objections would have undoubtedly resulted in the  
 6 judge ordering the jury to disregard the statements which  
 7 would have put the jury on notice that they are not  
 8 allowed to consider the improper statements, and that alone  
 9 could have changed the outcome of the trial. However,  
 10 counsel's failure to object to the false and unsupported  
 11 material statements resulted in and contributed to and  
 12 proximately caused Green's convictions for the crimes  
 13 accused and subjected him to an unfair trial, a bias jury,  
 14 prosecutorial misconduct, and a conviction on less than  
 15 proof beyond a reasonable doubt. Counsel's non-objections  
 16 to the statements in question amount to defective and  
 17 ineffective representation.

18 Trial counsel's failure to use preemptory challenge to  
 19 excuse a potential bias juror from the jury panel constitutes  
 20 ineffective trial representation.

21 Here, during voir dire, juror John Elwood was  
 22 questioned and answered as follows:

23 Mr. Fuetsch (co-defendant Wanda Fain's defense counsel):

24 "Does anyone have a problem or would they have  
 25 a problem with following the instructions of the court even  
 26 if the result that would be reached by following the

Continuation Of "Ground 4"; Page #5

1 INSTRUCTIONS OF THE COURT WERE CONTRARY TO YOUR GUT  
2 RETENTION IN A CASE AS SERIOUS AS THE THAT'S CHARGED HERE?"

3 PROSPECTIVE JUROR: "I THINK I WOULD HAVE A PROBLEM  
4 WITH IT."

5 MR. FUETSCH: "... COULD YOU EXPLAIN WHAT YOU MEAN  
6 BY YOU WOULD HAVE A PROBLEM WITH THAT?"

7 PROSPECTIVE JUROR: "I BELIEVE THERE'S A HIGHER  
8 AUTHORITY THAN LEGAL AUTHORITY THAT IS LIKE MORAL AUTHORITY,  
9 AND TO FOLLOW LIKE A SET OF RULES RATHER THAN MORE OF A  
10 MORAL THING, I THINK I WOULD BE HADAPRESSED TO FOLLOW THE  
11 SET OF RULES THAT ARE OUTLINED BY LAW."

12 "... BUT I THINK IF YOU MISCONSTRUE THE CONSTITUTION  
13 OR BROADEN ITS ACTUAL AUTHORITY, THEN I THINK THAT  
14 COULD BE POTENTIALLY WRONG."

15 (RT 132-133.)

16 MR. ARIAN (GREG'S TRIAL COUNSEL):

17 "MR. ELWOOD, I HEARD YOU SAY SOMETHING ABOUT  
18 BROADENING THE AUTHORITY OF THE CONSTITUTION. DO YOU RECALL  
19 THAT COMMENT?"

20 PROSPECTIVE JUROR: "I DO."

21 MR. ARIAN: "I WONDER IF YOU COULD SAY ANY MORE  
22 ABOUT THAT. I DIDN'T GET YOUR COMPLETE THOUGHT."

23 PROSPECTIVE JUROR: "MY THOUGHT IS A LOT OF, LET'S  
24 SAY, SOMEBODY'S ON TRIAL, THE JURORS SIT THROUGH THE  
25 ENTIRE TRIAL, THEY HAVE A GUT FEELING THAT THESE DEFENDANTS  
26 ARE, LET'S SAY, GUILTY, BUT A LOT OF CIRCUMSTANTIAL

Continuation Of "Ground 4"; Page #6

1 EVIDENCE HAS BEEN BROUGHT IN AND IT'S BEEN FOUND -- OR A  
2 LEGAL ISSUE HAS BEEN BROUGHT UP, A MINOR LEGAL ISSUE THAT  
3 SPEAKS TO THEIR INNOCENCE. YOU'RE SUPPOSED TO THINK  
4 THEY'RE INNOCENT EVEN THOUGH THEY'RE GUILTY, BECAUSE IT'S  
5 A LEGAL ARGUMENT AND IT TAKES PRECEDENCE OVER HOW YOU FEEL."

6 MR. ARIAN: "YOU'RE SAYING THAT AS A JUROR YOUR GUT  
7 REACTION IS VERY IMPORTANT AND YOU'RE GOING TO PAY A LOT  
8 OF ATTENTION TO THAT?"

9 PROSPECTIVE JUROR: "IF YOU'VE LISTENED TO ALL THE  
10 FACTS AND YOU SAY, YES, THEY ARE INNOCENT OR GUILTY, BUT  
11 SOME LEGAL PRECEDENCE MAKES YOU DISMISS THAT, THEN I  
12 HAVE A BIG PROBLEM WITH THAT."

13 MR. ARIAN: "YOU MIGHT NOT BE ABLE TO DO THAT?"

14 PROSPECTIVE JUROR: "NO, I WOULD NOT."

15 MR. ARIAN: "WOULD THAT HOLD IF THE JUDGE AT THE  
16 CLOSE OF THE CASE INSTRUCTED YOU THAT YOU WERE TO CONSIDER  
17 THIS EVIDENCE IN A CERTAIN WAY AND THE INSTRUCTIONS OF THE  
18 JUDGE WENT COUNTER TO THE FEELINGS YOU JUST DESCRIBED."

19 PROSPECTIVE JUROR: "I REALLY DON'T KNOW SITTING  
20 HERE RIGHT NOW."

21 MR. ARIAN: "WOULD YOU HAVE TROUBLE WITH IT?"

22 PROSPECTIVE JUROR: "I WOULD HAVE MAJOR PROBLEMS."

23 (RT 142-143.)

24 THE COURT: "AT THIS POINT DOES ANY PARTY WISH  
25 TO ENTER A CHALLENGE FOR CAUSE?"

26 1111

Continuation Of "Ground 4"; Page # 7

But before you do that, Mr. Elwood, I was little unclear about your statements.

Let me just read this question to you again:

It [sic] important that I have your assurance that you will without reservation follow my instructions and rulings on the law and will apply that law to the case. To put it differently, whether you approve or disapprove of my instructions, it is your solemn duty to accept as correct my statements of the law. You may not substitute your own idea of what you think the law ought to be.

Would you be able to follow the law as given by me in this case?"

Prospective Juror: "I would, but I may have a problem with that, internal conflict."

(CT 158-159.)

As demonstrated, juror Elwood's responses during voir dire were evasive and misleading and concealed his unwillingness to follow the court's instructions. Any reasonably effective counsel would have used a preemptory challenge to excuse juror Elwood from the jury panel as a result of his explicit or implicit allegiance to his "gut" feelings opposed to the law and instructions given by the court. Moreover, Elwood's declaration illustrates an abundance of juror misconduct (CT 451-452.), therefore, it is reasonable to assume that Elwood's

CONTINUATION OF "Ground 4"; Page #8

1 RELIANCE ON his gut feelings during deliberations, rather than  
2 the Court's instructions, was influential in the jury's  
3 decision to find GREG guilty of the crimes charged,  
4 particularly since the verdicts were CONTRARY to law.

5 Counsel's failure to excuse potential bias Elwood from the  
6 jury panel contributed to and proximately caused GREG's  
7 deprivation of a fair trial and impartial jury.

8 GREG's right to effective assistance of trial counsel  
9 as guaranteed by the Fifth, Sixth and Fourteenth  
10 Amendments of the United States Constitution was violated  
11 when counsel failed to (1) challenge the overt acts;  
12 (2) object to false and unsupported material statements  
13 at trial; and (3) use preemptory challenge to excuse the  
14 bias juror John Elwood from the jury panel.

15 BASED ON THE ABOVE, the Court must grant habeas  
16 relief to GREG on this ground along with any other  
17 relief the Court deems fair and just.

Ground 2 or Ground 5 (if applicable): "Ground 5"; Page #1

GREG'S RIGHT TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED WHEN COUNSEL DELIBERATELY FAILED TO DISCOVER AND INCLUDE NON-FRIVOLOUS ISSUES INTO THE APPELLANT'S BRIEF.

a. Supporting facts:

IT WAS DEFECTIVE AND INEFFECTIVE REPRESENTATION OF APPELLATE COUNSEL WHEN COUNSEL FAILED TO RAISE ON APPEAL THE FOLLOWING NON-FRIVOLOUS ISSUES: (1) GREG'S CONVICTIONS ARE BASED ON LESS THAN PROOF BEYOND A REASONABLE DOUBT OF EVERY ELEMENT OF THE CHARGED CRIMES AS FULLY SET FORTH HEREIN AT GROUND ONE; (2) THE PROSECUTOR COMMITTED SEVERAL INSTANCES OF PROSECUTORIAL MISCONDUCT AS FULLY SET FORTH HEREIN AT GROUND TWO; (3) THE JURY FAILED TO RESPOND HONESTLY TO THE DEFENSE COUNSEL'S QUESTIONS DURING VOIR DIRE AS FULLY SET FORTH HEREIN AT GROUND THREE; AND (4) TRIAL COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO CHALLENGE THE OVERT ACTS IN SUPPORT OF THE CONSPIRACY CHARGE; FAILED TO OBJECT TO THE FALSE AND UNSUPPORTED AND DECEITFUL MATERIAL STATEMENTS PRESENTED AT TRIAL BY THE PROSECUTOR; AND FAILED TO USE PREEMPTORY CHALLENGE TO EXCUSE JUROR JOHN ELWOOD, AS FULLY SET FORTH HEREIN AT GROUND FOUR. NONE OF THESE ISSUES ARE FRIVOLOUS.  
(SEE CONTINUATION, ADDITIONAL PAGE)

Supporting cases, rules, or other authority:

Smith V. Robbins, 538 U.S. 259 (2000); BRECHT V. ABRAHAMSON, 507 U.S. 619 (1993); DONNELLY V. DECHRISTOFORO, 416 U.S. 637 (1974)

Continuation of "Ground 5"; Page #2

1 Any reasonably effective appellate counsel would have  
2 raised each of the mentioned issues on direct appeal  
3 to acquire the reversal of the lower court's judgment.

4 Appellate counsel raised the following claims on  
5 appeal: insufficient evidence to prove conspiracy to  
6 commit murder; insufficient evidence to prove  
7 attempted murder; jury misconduct; remand for  
8 resentencing under People V. Superior Court; and  
9 joinder in co-defendants' arguments. Had  
10 counsel incorporated the mentioned non-frivolous  
11 issues into the appellate brief, the issues would have  
12 provided evidentiary support for the claims raised  
13 therein and contributed to the perseverance of a  
14 successful appeal. However, appellate counsel's  
15 failure to raise the issues in question deprived GREG  
16 of a prosperous and triumphant appeal and the  
17 right to effective representation of counsel on appeal  
18 in violation of his Fifth, Sixth and Fourteenth  
19 Amendments of the United States Constitution.

20 Based on the above, the Court must grant habeas  
21 relief to GREG on this ground and any other relief  
22 the Court deems fair and just.  
23  
24  
25  
26

8. Did you appeal from the conviction, sentence, or commitment? ☒ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

Court of Appeal of the State of Calif., First Appellate District, Division Four

b. Result Affirmed

c. Date of decision: JANUARY 28, 1998

d. Case number or citation of opinion, if known: No. A072126

e. Issues raised: (1) INSUFFICIENT EVIDENCE TO PROVE CONSPIRACY TO COMMIT MURDER;

(2) INSUFFICIENT EVIDENCE TO PROVE ATTEMPTED MURDER; (3) JURY MISCONDUCT; (4) REMAND FOR RESENTENCING UNDER PEOPLE V. SUPERIOR COURT; AND (5) JOINDER IN CO-DEFENDANT ARGUMENTS.

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

VICTOR BLUMENKRANTZ; P.O. BOX 9586; BERKELEY, CA 94709

9. Did you seek review in the California Supreme Court? ☒ Yes ☐ No. If yes, give the following information:

a. Result DENIED

b. Date of decision: April 29, 1998

c. Case number or citation of opinion, if known: S068320

d. Issues raised: (1) SAME AS ABOVE

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

THE ISSUES RAISED HEREIN ARE BASED ON MATTERS OUTSIDE THE RECORD ON APPEAL.

TRIAL AND APPELLATE COUNSEL WERE INEFFECTIVE IN FAILING TO RAISE THESE ISSUES.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☐ Yes. If yes, continue with number 13. ☒ No. If no, skip to number 15.

13. a. (1) Name of court: \_\_\_\_\_

(2) Nature of proceeding (for example, "habeas corpus petition"): \_\_\_\_\_

(3) Issues raised: (a) \_\_\_\_\_

(b) \_\_\_\_\_

(4) Result (Attach order or explain why unavailable): \_\_\_\_\_

(5) Date of decision: \_\_\_\_\_

b. (1) Name of court: \_\_\_\_\_

(2) Nature of proceeding: \_\_\_\_\_

(3) Issues raised: (a) \_\_\_\_\_

(b) \_\_\_\_\_

(4) Result (Attach order or explain why unavailable): \_\_\_\_\_

(5) Date of decision: \_\_\_\_\_

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

\_\_\_\_\_

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) *THE ISSUES RAISED HEREIN ARE BASED ON MATTERS OUTSIDE THE RECORD ON APPEAL, AND GREG LACKED BASIC EDUCATION AND ALL LEGAL KNOWLEDGE, UNTIL NOW, TO PURSUE THE ISSUES HEREIN. MOREOVER, GREG HAS BEEN SUFFERING FROM MAJOR DEPRESSION AND MENTAL ILLNESSES AS A RESULT OF HIS WRONGFUL CONVICTIONS AND IMPRISONMENT.*

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

\_\_\_\_\_

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

\_\_\_\_\_

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

*N/A*

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: *3/6/07 4/16/07*

*Gregory L. Brown*  
(SIGNATURE OF PETITIONER)

## Declaration of Service

CASE NAME: GREGORY L. BROWN V. WARDEN, SATF - CORCORAN PRISON

CASE No.: \_\_\_\_\_

I declare: April 16, 2007

On March 16, 2007, I served the attached:  
GREG'S PETITION FOR WRIT OF HABEAS CORPUS by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the prison mail collection system at SATF-CORCORAN, in California, addressed as follows:

Clerk, Superior Court of the City and County  
of San Francisco  
Hall of Justice  
850 Bryant St.  
San Francisco, CA 94103

District Attorney's Office of San Francisco  
Hall of Justice  
850 Bryant St., Room 300  
San Francisco, CA 94103

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4/16/07  
3/6/07

Gregory L. Brown  
GREGORY L. BROWN  
Petitioner

**EXHIBIT B**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE CITY AND COUNTY OF SAN FRANCISCO

Department No. 22

IN THE MATTER OF THE APPLICATION )  
OF )

GREGORY L. BROWN )

Petitioner, )

FOR A WRIT OF HABEAS CORPUS )

WRIT NO. 5568

ORDER

ENDORSED  
FILED  
San Francisco County Superior Court

MAY 30 2007

GORDON PARK-LI, Clerk  
BY: CARLOS BARRAZA  
Deputy Clerk

On April 25, 2007 this Court received a Petition for Writ of Habeas Corpus from petitioner Gregory L. Brown ("Petitioner"). On May 25, 1995, Petitioner was convicted of conspiring to commit murder and of attempted murder. On January 28, 1998, the First District Court of Appeal affirmed the judgment with sentencing modifications. On April 29, 1998, the California Supreme Court denied review. Petitioner is serving 56 years to life at Corcoran State Prison.

Petitioner seeks habeas relief on four grounds. He claims that the verdict was not supported by sufficient evidence and that the prosecutor "maliciously and intentionally introduced false and unsupported and deceitful material statements at trial." He also claims that jurors committed misconduct and that his trial and appellate counsel provided ineffective assistance of counsel.

Petitioner was convicted almost 12 years ago and the Court of Appeal affirmed his conviction over nine years ago. Under well-established California law, a petition should be filed as promptly as the circumstances allow. As a result, the petitioner must explain in detail and "justify any substantial delay in presenting a claim." (*In re Clark* (1993) 5 Cal.4th 750, 765); *In re Swain* (1949) 34 Cal.2d 300, 302.) Where there has been significant delay in seeking habeas relief, the petitioner must describe circumstances sufficient to justify or explain the delay. To avoid the bar of untimeliness, the petitioner has the burden of establishing: (1) the absence of substantial delay; (2) good cause

1 for the delay; or (3) that the claim falls within an exception to  
2 the bar of untimeliness. (*In re Robbins* (1998) 18 Cal.4th 770,  
3 781; see also *Clark, supra*, 5 Cal.4th at 775 ["[i]f a petitioner  
4 had reason to suspect that a basis for habeas corpus relief was  
available, but did nothing to promptly confirm those suspicions,  
that failure must be justified"].)

5 As an initial matter, Petitioner's insufficient evidence  
6 and juror misconduct claims are barred because they were raised  
- and rejected - on appeal. Because these issues were  
7 "previously raised and rejected on direct appeal, and because  
the [P]etitioner does not allege sufficient justification for  
8 the issues['] renewal on habeas corpus," the issues are  
"procedurally barred from being raised again." (*Harris, supra*,  
9 5 Cal.4th at 825; see also *In re Sakarias* (2005) 35 Cal.4th 140,  
145.)

10 Petitioner's ineffective assistance of trial and appellate  
11 counsel claims fail for two reasons. First, he has failed to  
justify the delay in bringing these claims. Instead of alleging  
12 facts to demonstrate good cause for the delay, Petitioner claims  
that he "lacked basic education and all legal knowledge, until now"  
13 and that he was somehow prevented from seeking relief because he  
has "been suffering from major depression and mental illness."  
14 These contentions have no merit. Petitioner does not allege when  
he began suffering "major depression and mental illness," nor does  
15 he allege how these conditions prevented him from seeking writ  
relief. Moreover, Petitioner does not explain how his alleged lack  
16 of "legal knowledge" prevented him from consulting his appellate  
attorney about a possible claim for ineffective assistance of trial  
17 counsel, or from contacting an attorney to inquire into the quality  
of representation provided by his appellate counsel.  
18

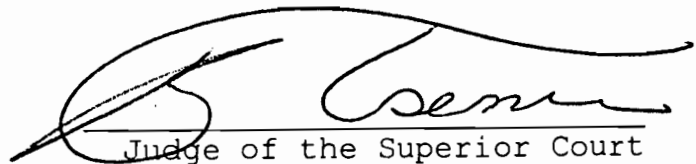
19 Even assuming Petitioner's ineffective assistance of  
counsel claims are not time-barred, these claims fail because  
20 Petitioner has not provided any documentation to support his  
claims that his trial and appellate counsel provided ineffective  
21 assistance. It is well settled that a petition for writ of  
habeas corpus should: (1) state fully and with particularity  
22 the facts upon which relief is sought; and (2) include copies of  
reasonably available documentary evidence supporting the claim,  
23 including pertinent portions of trial transcripts and affidavits  
or declarations. (*People v. Duvall* (1995) 9 Cal.4th 464, 474.)  
24 Conclusory allegations made without any explanation of their  
basis do not warrant relief. (*People v. Karis* (1988) 46 Cal.3d  
25 612, 656; see also *In re Swain* (1949) 34 Cal.2d 300, 303-304.)

Petitioner's failure to attach any supporting documentation to his petition prevents this Court from conducting a meaningful review of his ineffective assistance of counsel claims.

"To establish ineffective assistance of counsel . . . a defendant must show that counsel's representation fell below an objective standard of reasonableness under prevailing professional norms, and that counsel's deficient performance was prejudicial, i.e., that a reasonable probability exists that, but for counsel's failings, the result would have been more favorable to the defendant." (*Strickland v. Washington* (1984) 466 U.S. 668, 687-688; *People v. Waidla* (2000) 22 Cal.4th 690, 718.) Even assuming Petitioner's claims about his attorneys' conduct at trial and during his appeal are accurate, his claims fail because he has not demonstrated that his counsels' performance "fell below an objective standard of reasonableness" and that there is a reasonable probability that, but for counsel's alleged errors, "the result of the proceeding would have been different." (*People v. Ledesma* (1987) 43 Cal.3d 171, 218.) "When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." (*Ledesma, supra*, 43 Cal.3d at 218, citing *Strickland, supra*, 466 U.S. at 693-94].)

For the foregoing reasons, Petitioner's writ of habeas corpus is DENIED.

5/25/07  
Date

  
Judge of the Superior Court

## **EXHIBIT C**

Name GREGORY L. BROWN  
 Address SATF-CORCORAN  
P.O. Box 5246  
CORCORAN, CA 93212

MC-275

**A 118248  
FILED**

CDC or ID Number \_\_\_\_\_

Court of Appeal of The State of California  
First Appellate District, Division Four  
 (Court)  
 JUN 29 2007  
 Court of Appeal First App. Dist.  
 DIANA HERBERT  
 DEPUTY

GREGORY L. BROWN  
 Petitioner  
 vs.  
WARDEN, SATF-CORCORAN PRISON  
 Respondent

## PETITION FOR WRIT OF HABEAS CORPUS

No. \_\_\_\_\_  
 (To be supplied by the Clerk of the Court)

*Evidentiary Hearing Requested*

## INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

Page one of six

## This petition concerns:

- ☒ A conviction ☐ Parole  
☐ A sentence ☐ Credits  
☐ Jail or prison conditions ☐ Prison discipline  
☐ Other (specify): \_\_\_\_\_

1. Your name: GREGORY L. BROWN  
2. Where are you incarcerated? SFITT - CALIFORNIA State Prison  
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

COUNT I, CONSPIRACY TO COMMIT MURDER  
COUNT II, ATTEMPTED MURDER

- b. Penal or other code sections: COUNT I 182.1, 187; COUNT II 664/187

- c. Name and location of sentencing or committing court: SUPERIOR COURT of the City and County of SAN FRANCISCO, Hall of Justice, 830 Bryant St., S.F., CA 94103

- d. Case number: No. 159271

- e. Date convicted or committed: MAY 25, 1995

- f. Date sentenced: OCTOBER 12, 1995

- g. Length of sentence: 56 Years to Life

- h. When do you expect to be released? Immediately upon granting of this habeas.

- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:

STEPHEN ARMAN; P.O. Box 668; Kentfield, CA 94914

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

## 6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (if you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

GREG'S RIGHT TO A FAIR TRIAL AND DUE PROCESS, AS GUARANTEED UNDER THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED AS A RESULT OF HIS CONVICTION ON LESS THAN PROOF BEYOND A REASONABLE DOUBT OF EVERY ELEMENT OF THE CHARGED CRIMES.

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

NO RATIONAL TRIER OF FACTS COULD HAVE FOUND THE ESSENTIAL ELEMENTS OF THE CRIMES CHARGED AGAINST GREG, BEYOND A REASONABLE DOUBT.  
ON MARCH 17, 1945, PROSECUTOR FLOYD ANDREWS FILED HIS INFORMATION IN THIS CASE. COUNT I OF THE INFORMATION ACCUSED GREG OF CONSPIRACY TO COMMIT MURDER (CT 1.) AND COUNT II ACCUSED HIM OF ATTEMPTED MURDER (CT 4.). THE INFORMATION ALLEGED THAT THE ATTEMPTED MURDER WAS WILLFUL, DELIBERATE, AND PREMEDITATED. (CT 5.) AS TO THE ATTEMPTED MURDER COUNT, THE INFORMATION ALSO ALLEGED THAT GREG PERSONALLY INFLICTED GREAT BODILY INJURY UPON ROBIN "WILLIAMS." (CT 5.) THE INFORMATION SET OUT 14 OVERT ACTS IN SUPPORT OF THE CONSPIRACY ACCUSATION, NAMING GREG IN ONLY FOUR OVERT ACTS (Nos. 2, 4, 5 AND 6.). (CT 1-4) OVERT ACT NO. 2 ACCUSED (SEE CONTINUATION, ADDITIONAL PAGE.)

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

IN RE WINSHIP, 397 U.S. 358 (1970); LEAVITT V. VASQUEZ, 875 F.2d 260 (1989) (9th Cir.);

Continuation Of "Ground 1"; Page #2

1 GREG of taking a photo AND giving it to Wanda "FAIN";  
 2 No. 4 ACCUSED GREG of ACCOMPANYING FAIN to deliver a  
 3 NOTE; No. 5 ACCUSED GREG of ENCOURAGING FAIN AND  
 4 Joseph "Diggs" to murder Robin Williams; AND No. 6 ACCUSED  
 5 GREG AND FAIN of RESIDING AT 126 Blythdale. Overt Act  
 6 Nos. 2 AND 4 ARE MEANINGLESS IN THE CONTEXT OF THE  
 7 CONSPIRACY CHARGE BECAUSE THERE WAS NO EVIDENCE OF ANY  
 8 AGREEMENT, BETWEEN GREG AND ANOTHER OR OTHERS  
 9 to commit murder. But, more importantly, those two  
 10 "acts" do NOT meet the legal requirement of AN  
 11 "Overt Act." The jury made a determination that GREG  
 12 ENCOURAGED FAIN AND Diggs to murder Robin Williams  
 13 (Verdict, Overt Act No. 5), but there is NOT a shred of  
 14 admissible evidence presented at trial from which this  
 15 conclusion could logically be reached. And there was  
 16 NO finding of Overt Act No. 6. (Verdict, Overt Act No. 6.)  
 17 There was NO sufficient evidence of AN Overt Act  
 18 supporting the charge of conspiracy to commit murder.  
 19 The crime of conspiracy is defined in the California Penal  
 20 Code (Sec. 182, subd. (a)(1), 184) AS two OR MORE PERSONS  
 21 CONSPIRING to commit ANY CRIME, together with proof of  
 22 the commission of AN Overt Act by ONE OR MORE of the  
 23 parties to such agreement in furtherance thereof.  
 24 Conspiracy is a specific intent crime. The specific  
 25 intent required divides logically into two elements  
 26 (a) the intent to agree, OR conspire, AND (b) the intent

Continuation Of "Ground 1"; Page #3

to commit the offense which is the object of the conspiracy. To sustain a conviction for conspiracy to commit murder, the prosecution must show not only that the conspirators intended to agree but also that they intended to kill the victim.

The evidence introduced at trial, as it pertains to GREG may be summarized as follows:

1.) He was arrested on January 6, 1995, at 126 Blythdale, while in possession of a handgun and crack cocaine. Robin Williams made a statement to police incriminating GREG.

2.) He was present when a purportedly threatening note, written by co-defendant Wanda Fain, on paper from a notebook belonging to Fain, was delivered to Williams. The note came with a photograph of her taken by GREG five years before.

3.) GREG and Williams met, and GREG agreed to provide Williams unspecified remuneration if she would refrain from testifying against him at an upcoming preliminary hearing. The two resumed their previously friendly relationship.

4.) GREG was present at 126 Blythdale on February 7, until about 4:00 to 6:30 P.M. that evening. Williams, Fain and Diggs left to take the bus about 7:30 P.M.

///

///

## Continuation Of "Ground 1"; Page # 4

First, the January 6, arrest could only be considered on the issue of Greg's motive to commit the crimes alleged. (RT 347-348; 1213-1215.) Clearly, "motive" is not an essential element of either crime charged. Indeed, motive is different from intent (1 Witkin, California Criminal Law (2<sup>nd</sup> edition 1988), sec. 100, p. 118), and does not establish intent.

Second, the alleged threatening note was written by Finn on her paper. (RT 727-729, 935.) It was delivered about three weeks before the February 7, 1995 shooting of Williams. A reasonable trier of facts could infer that Greg was associated with the note, but it is not reasonable to interpret the note as evidencing an agreement between Finn and Greg to commit any crime, let alone an agreement to kill Williams. Furthermore, about a week and a half after Williams received the note, or about two weeks before February 7, 1995, Williams and Greg reconciled. (RT 520, 545-546, 557.) From that time forward, up to and including February 7, 1995, Williams visited with Greg every day or every other day. There is no evidence to suggest that these approximately seven to fourteen visits were anything but friendly. Indeed, Williams testified that Greg specifically indicated to her that he had no intention to hurt her. (RT 557.)

Third, given the evidence that Greg either lived at 126 Blythdale or was there often and Williams considered

Continuation Of "Ground 1"; Page #5

1 him her friend, nothing can be inferred from GREG's  
 2 presence at or absence from 126 Blythdale on the day  
 3 Williams was shot. Williams' trial testimony varied as to  
 4 when GREG left on that day. (RT 547-530.) She also  
 5 testified that she did not remember when he left. (RT 551-  
 6 552.) At the March 6, 1995 preliminary examination,  
 7 she testified that he left early, around 4:00 P.M.  
 8 (RT 547-549, 551.)

9 Nowhere in the record is there any evidence from which  
 10 a rational inference may be made that GREG agreed with  
 11 ANYONE to take Robin Williams' life, or to do her any harm  
 12 at all. There is no evidence which even arguably shows  
 13 that GREG had an intent to kill Williams. There is  
 14 no evidence linking GREG to any weapon associated with  
 15 the shooting of Williams. There is no other physical  
 16 evidence linking GREG to the shooting of Williams. There is  
 17 no evidence of any discussions among GREG, FAIN, and  
 18 Diggs regarding killing Williams. There is no evidence  
 19 that GREG had any connection to the trip that FAIN, Diggs,  
 20 and Williams took to Third Street. And there is nothing  
 21 in the statements that FAIN and Diggs gave to the police  
 22 that connected GREG to the shooting of Williams.

23 The fact that GREG knew FAIN and perhaps Diggs is  
 24 not sufficient. Mere association is not enough to  
 25 establish the essential elements of either crime alleged.

26 1111

Continuation Of "Ground 1"; Page #6

As shown above, there is no evidence to support the essential elements of the crime of conspiracy to commit murder.

Even less evidence exists with respect to the finding of the crime of attempted murder of Robin Williams. Where, as here, the prosecution has charge the attempt to be "willful, deliberate, and premeditated," it must adduce evidence from which it may be rationally inferred that, "... the would-be slayer (weighed and considered) the question of killing and the reason for and against such choice and, having in mind the consequences, decides to kill another human being." CALTIC § 67.

No such evidence exists in the record. Nor is there any evidence of the specific intent element needed to satisfy the attempted murder requirement. Such intent must be shown at the time of the overt act by which the attempt is manifested; and it cannot be inferred from the commission of another crime.

Another essential element of the crime of attempt is the requirement of a direct but ineffectual act done toward the commission of the act alleged. The act must be overt and unequivocal; it must constitute the beginning of the consummation of the attempted crime. Preparation alone is not sufficient.

1111

Continuation Of "Ground I"; Page # 7

1 Just as there is no evidence to support the elements  
 2 of GREG's conspiracy to commit murder conviction of  
 3 Robin Williams, there is no evidence to support the  
 4 elements of his attempted murder conviction of her.  
 5 There is no evidence to support a finding that GREG  
 6 had a specific intent to kill Williams. There is  
 7 no evidence that GREG attempted a direct but  
 8 ineffectual act of killing Williams. There is no evidence  
 9 that GREG participated in the shooting of Williams,  
 10 directly or indirectly. There is no evidence that GREG  
 11 aided and abetted an attempt to kill Williams. There is  
 12 no weapon or physical evidence linking GREG to the shooting  
 13 of Williams. There is no evidence that GREG even  
 14 suspected that FAIN, Diggs or anyone else had any  
 15 criminal intent towards Williams, and certainly no  
 16 evidence that he shared in any criminal intent toward her.  
 17 Furthermore, just as the note cannot support the  
 18 conspiracy conviction, it cannot support the attempted  
 19 murder conviction. GREG's presence when FAIN  
 20 delivered the note cannot be interpreted as providing  
 21 encouragement to FAIN, Diggs, or anyone else to shoot  
 22 Williams three weeks later; and the reconciliation  
 23 between Williams and GREG are irreconcilable with a  
 24 finding that GREG advised or encouraged the attempted  
 25 murder of Williams. Williams AND FAIN reconciled also.  
 26 (RT 546-556.) Even putting aside the reconciliation

Confirmation Of "Ground 1"; Page #8

1 of Williams with Fain and Greg, the Attempted murder of  
2 Williams was not a reasonably foreseeable consequence of  
3 Greg's standing on a porch while Fain delivered a note and  
4 photograph to Williams.

5 Nonetheless, motive cannot supply the specific intent  
6 elements of Attempted murder. Nor can association establish  
7 either the requisite encouragement or intent to kill.

8 Nor can Greg's brief presence at 126 Blythdale on the day  
9 of the shooting establish either the requisite encouragement  
10 or intent to kill, particularly, in light of the evidence  
11 that he either frequent or lived there.

12 A microscopic examination of the trial transcript  
13 fails to reveal ANY evidence from which a reasonable  
14 person could make a rational inference establishing any  
15 of the elements of conspiracy to commit murder and  
16 Attempted murder.

17 Greg's convictions for conspiracy to commit murder  
18 and Attempted murder based on absent and/or less than  
19 proof beyond a reasonable doubt of every element of  
20 the accused crimes violated his right to a fair trial  
21 and due process under the Fifth and Fourteenth  
22 Amendments of the United States Constitution.

23 Based on the above, the court must grant habeas  
24 relief to Greg and enter a judgment of acquittal.  
25 Acquittal is required because, at the close of the  
26 prosecution's case-in-chief, the trial court improperly

Continuation Of "Ground 1"; Page #9

1 denied GREG's California Penal Code sec. 1118.1 motion for  
2 judgment of acquittal. (CT 48, 55; RT 1031-1037.)

3 REVERSAL ALONE IS NOT AN ADEQUATE REMEDY BECAUSE A RETRIAL  
4 COULD THEN RESULT, WHICH WOULD VIOLATE THE STATE AND  
5 FEDERAL CONSTITUTIONAL PROHIBITIONS AGAINST DOUBLE JEOPARDY.

7. Ground 2 or Ground 2 (if applicable): "Ground 2"; Page #1

GREG's right to a Fair Trial and Due Process, as guaranteed under the Fifth and Fourteenth Amendments of the United States Constitution, was violated when the prosecutor maliciously and intentionally introduced false and unsupported and deceitful material statements at trial.

a. Supporting facts:

It was prosecutorial misconduct and malicious prosecution for Floyd "Andrews," a former San Francisco prosecutor, to introduce false and unsupported and deceitful material statements at trial to acquire GREG's convictions for conspiracy to commit murder and attempted murder.

Prosecutor Andrews' false and unsupported material statements in his "Closing Arguments" at trial were so improper that it infected the trial with unfairness as to make GREG's convictions a denial of due process and a fair trial. In closing, Andrews told the jury that Wanda Fain wrote the note "for Gregory Brown," (RT 1349.) and "... he (GREG) can get her (Robin Williams) out to Terrell Avenue and shoot her and leave her dead through the other two (Wanda Fain and Joseph Diggs)." (RT 1349.) Andrews further repeatedly exhorted the jury to bring in a "guilty" verdict, not based on the evidence, but "because (SEE Continuation, Additional Page)

Supporting cases, rules, or other authority:

Darden v. Wainwright, 477 U.S. 168 (1986); Brecht v. Abrahamson, 509 U.S. 619 (1993); Donnelly v. DeChristoforo, 416 U.S. 637 (1974); In re Winship, 397 U.S. 358 (1970); Berger v. United States, 295 U.S. 78 (1935); Miller v. Pate, 386 U.S. 1 (1967)

Continuation Of "Ground 3"; Page #2

they did it." (RT 1350.) The trial record is devoid of any evidence to support any of these accusations. There was no evidence introduced at trial that showed Fain wrote the note "for Gregory Brown." There was no evidence introduced at trial that showed Greg had any connection to the trip that Fain, Diggs and Williams took to Jerold Avenue. There was no evidence introduced at trial from which a rational inference may be made that Greg agreed with Fain, Diggs or anyone else to take Robin Williams' life, or to do her any harm at all. And nowhere in the trial record is there any evidence as to who actually shot Williams.

As demonstrated above, not only did Andrews failed to limit the scope of his closing arguments to the evidence presented at trial but he also deliberately and consciously introduced numerous false and unsupported material statements which rested exclusively on the issue of guilt. Additionally, Andrews' exhortations of the jury to bring in a "guilty" verdict, by any means other than the evidence, "because they did it" amount to malicious prosecution and several instances of prosecutorial misconduct because:

- (1) it was contrary to the evidence presented at trial;
- (2) it was an injection of his personal opinion or belief;
- (3) it influenced and inflamed the jury's prejudices against Greg;
- (4) it encouraged the jury to

Continuation Of "Ground 2"; Page #3

1 disregarded the court's instructions concerning innocence  
2 and guilt; and (5) it diverted the jury's attention from  
3 its duty to decide the case on the merit of the evidence  
4 presented at trial.

5 But, just as equally prejudicial, it negated the  
6 fact that other people could have been responsible for  
7 the shooting of Robin Williams. On cross-examination,  
8 Williams was questioned about various persons who might  
9 bear ill will towards her. In January 1994, just a  
10 year prior to her shooting, Robin Williams was convicted  
11 of a residential burglary, and named three black males  
12 who were also involved. (RT 573, 587-588, 641.)

13 After that burglary, Corky, the boyfriend of the woman  
14 whose house she had burglarized, beat her up. (RT 583.)  
15 Williams had also incurred drug debts in the past.

16 (RT 576, 580.) However, she denied having any drug  
17 debts on February 7, 1995, and did not remember ever  
18 being threatened by drug dealers to whom she owed  
19 money. (RT 576, 580, 582.) She said that she knew  
20 Irwin Berry at Sunnydale, but did not remember him  
21 hitting her with a gun because of some debts she owed  
22 him. (RT 582.) She specifically denied owing any  
23 money to a man named "Tails" from the Sunnydale area,  
24 and said that she did not remember him coming up to  
25 her the night before February 7, 1995 and pointing a  
26 gun at her. (RT 581-582.) However, Daffie Hayes

Continuation Of "Ground 2"; Page #4

1 testified that she was talking on the telephone with a  
 2 friend at her home in the Sunnydale Projects on the  
 3 afternoon of February 6, 1995 when the friend said,  
 4 "Oh, my God, Tails pulled a gun on Robin." Robin  
 5 referred to Robin Williams. (RT 1005.) Hayes also  
 6 testified that sometime during the last couple of months  
 7 Phoebe's apartment at 56 Santos had caught on fire.  
 8 Williams and Phoebe were once roommates at 56 Santos.  
 9 (RT 1005-1006.) Over the years, Williams had gotten  
 10 into fights at Sunnydale. (RT 584-585.) Williams  
 11 admitted that she might have some enemies around  
 12 the city. (RT 586.)

13 Andrews' false and unsupported material statements  
 14 implanted in his closing arguments, whether individually  
 15 or collectively, so infected the trial outcome as to  
 16 create a genuine effect on the jury's verdict, especially  
 17 when considering the fact that the trial judge did not  
 18 instruct the jury to disregard the improper statements.  
 19 There is absolutely no way a rational jury could have  
 20 found GREG guilty of the crimes accused absent the  
 21 mentioned statements in Andrews' closing.

22 Prosecutor Andrews' intentional and malicious use  
 23 of false and deceitful material statements in his  
 24 "Opening Statements" at trial were so improper  
 25 that they infected the trial with unfairness as  
 26 to make GREG's resulting convictions a denial of due

Continuation Of "Ground 2"; Page #5

1 process and a fair trial. Andrews' opening statements  
 2 alleged, "She (Robin Williams) was shot because she made  
 3 a statement to the police about Gregory Brown, about  
 4 him selling drugs, about him having a gun. She was shot  
 5 to punish her for that statement and to prevent her from  
 6 testifying in future court appearances." (RT 314.)

7 Andrews failed to introduce any evidence at trial as to  
 8 why Robin Williams was shot. Andrews introduced no  
 9 evidence that Williams was shot because she made a  
 10 statement to the police "about Gregory Brown." Andrews  
 11 introduced no evidence that Williams was shot because her  
 12 statement mentioned Greg "selling drugs." Andrews  
 13 introduced no evidence that Williams was shot because  
 14 her statement mentioned Greg "having a gun." Andrews  
 15 introduced no evidence that Williams "was shot to  
 16 punish her for that statement" to the police.

17 Andrews introduced no evidence that Williams was shot  
 18 "to prevent her from testifying in future court  
 19 appearances." Furthermore, Andrews completely  
 20 failed to introduce any evidence at trial as to why  
 21 Williams was shot, and there was no trial evidence  
 22 as to why.

23 Moreover, Robin Williams' trial testimony totally  
 24 contradicted the improper statements given by Andrews in  
 25 his opening statements, while at the same time  
 26 exonerating Greg on all charges relating to her shooting.

Continuation Of "Ground 2"; Page #6

Williams testified at trial that on January 6, she was visiting Greg at 126 Blythdale, when the police came. She saw a gun in Greg's hand and a bag of crack in the other. (RT 511.) She made a statement to the police as to what she saw. (RT 513.) Some days later she was at a friend's house when Wanda "Fain" delivered a note to her, that included a photo of her taken some years before by Greg. Greg was nearby when the note was delivered, standing outside on a porch. (RT 515.) Fain said Greg wanted to talk to her. (RT 517.) She did not speak to Greg because she considered the note threatening and was scared. (RT 518.) About a week and a half later, she met Greg on the street and they spoke. He asked her to stay out of sight, and not to testify at his upcoming hearing, and in return he "would take care of" her as long as she didn't testify. (RT 519.) She was satisfied with the conversation and returned to her regular visits to 126 Blythdale, going there about every other day. She went there to talk to Greg and they were friends. (RT 520.) Greg never threatened her, and she believed he had no intention of hurting her. (RT 557.)

Andrews was aware that Williams would testify as she did, because it was relatively a recital of her preliminary hearing testimony. (RT 11-16; 51-52.) Nevertheless, Andrews deliberately, consciously and

Continuation Of "Ground 2"; Page # 7

maliciously used false and deceitful material statements in his opening statements to manipulate the jury.

This fact is highlighted by Andrews' calculated (and successful) efforts to paint GREG AS A HEARTLESS dope dealer who has previously captured and corrupted the victim, Robin Williams. Thus, for example, in his opening statements Andrews said:

"Robin is going to tell you that she is addicted to COCAINE, that she had been supplied COCAINE by GREGORY BROWN and other people . . . . That she did a lot of things to get her poison. She'd go to GREGORY BROWN and get drugs there. She's traded drug for sex with Mr. Brown."

(RT 315, line 28; 316, line 1-7.) Of course, there was NO EVIDENCE adduced at trial to support this assertion. Absent the maliciously false and deceitful statements embedded in Andrews' opening statements, NO RATIONAL jury could have reached a guilty verdict against GREG because there was simply NO EVIDENCE introduced at trial connecting him to the shooting of Robin Williams. Indeed, the improper statements created such a substantial and injurious effect on the jury's decision as to RENDER GREG'S convictions unconstitutional.

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Continuation Of "Ground 2"; Page #8

1 GREG'S right to a fair trial and due process, under  
2 the Fifth and Fourteenth Amendments of the United  
3 States Constitution, was violated as a result of several  
4 instances of prosecutorial misconduct as set forth herein.

5 Based on the above, the Court must grant VAREAS  
6 relief to GREG on this ground and enter a judgment  
7 of acquittal because there is no evidence to support  
8 a re-trial.

7. Ground 2 or Ground 3 (if applicable):"Ground 3"; Page #1

GREG's right to a FAIR TRIAL AND IMPARTIAL JURY, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION WAS VIOLATED WHEN JURORS GAVE INTENTIONALLY FALSE ANSWERS DURING VOIR DIRE AND/OR COVERED UP FALSE STATEMENTS GIVEN THEREIN.

a. Supporting facts:

IN THE PRESENT CASE, JURORS COMMITTED MISCONDUCT WHEN THEY INTENTIONALLY GAVE FALSE ANSWERS DURING VOIR DIRE OR COVERED UP FALSE STATEMENTS GIVEN THEREIN WHICH VIOLATED GREG'S RIGHT TO DUE PROCESS, A FAIR TRIAL, AN UNBIAS JURY, CONFRONTATION, AND A VERDICT BASED ON ADMISSIBLE TRIAL EVIDENCE, AS GUARANTEED BY THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

DURING VOIR DIRE, MR. FUETSCH, DEFENSE COUNSEL FOR CO-DEFENDANT WANDA FAHN, ASKED THE JURY: "DOES ANYONE HAVE A PROBLEM OR WOULD THEY HAVE A PROBLEM WITH FOLLOWING THE INSTRUCTIONS OF THE COURT EVEN IF THE RESULT THAT WOULD BE REACHED BY FOLLOWING INSTRUCTIONS OF THE COURT WERE CONTRARY TO YOUR GUT REACTION IN A CASE AS SERIOUS AS THE ONE THAT'S CHARGED HERE?" (RT 132, LINES 3-8.) THE ONLY JUROR WHO INDICATED HE WOULD HAVE A PROBLEM WITH FOLLOWING THE COURT'S INSTRUCTIONS IS JUROR JOHN ELWOOD. (RT 132-133 (from line 3 of 132 to line 13 of 133); 142-143 (from line 11 of 142 to line 28 of 143); 158-159, line 28-13).

DURING VOIR DIRE, MR. ZILVERSMITZ, DEFENSE COUNSEL FOR CO-DEFENDANT JOSEPH DIGGS, ASKED JURORS MR. CASTILLO, MS. OWENS, MS. SMITH, AND  
(SEE CONTINUATION ADDITIONAL PAGE)

b. Supporting cases, rules, or other authority:

TREWIN V. DOWD, 366 U.S. 717 (1961); BRECHT V. ABRAHAMSON, 509 U.S. 619 (1993); DONNELLY V. DE-CRISTOFORO, 416 U.S. 637 (1974);  
IN RE WINSHIP, 397 U.S. 358 (1970); CARTER V. KENTUCKY, 450 U.S. 288;

Continuation Of "Ground 3"; Page # 2

Mr. Bowen if they heard the judge's instruction on the presumption of innocence and whether they would be able to vote not guilty assuming there was no evidence to the contrary; each juror indicated they would. (RT 136-137.)

Mr. ZIVERSMIT also asked the jury if they would be able to vote not guilty if the prosecution failed to produce evidence of the defendants' guilt beyond a reasonable doubt; none of the jurors indicated to the contrary. (RT 140-141.)

During voir dire, Mr. ARIAN, GREG's trial defense counsel, asked the jury if any of them are confused about the "difference between a mere suspicion, a creating of a suspicion and creating evidence that convinces beyond a reasonable doubt"; none of the jurors indicated confusion. (RT 147.)

As demonstrated in the concerning declarations of juror John Elwood, juror Karen Pemberton, and Maggie Richard, GREG's trial defense investigator, the jury failed to answer questions honestly during voir dire regarding whether or not they would follow the court's instructions.

1 Following the verdicts, all the defendants, including GREG, filed motions for new trial, alleging among other things, jury misconduct during deliberation. However, this Ground, as well as all other Grounds set forth in these papers, was not raised in the motions for new trial by defense counsels nor on direct appeal.

Continuation Of "Ground 3"; Page #3

Juror Karen Pemberton, in her declaration given to counsel for co-defendant Joseph Diggs states among other things:

During deliberations, a juror had a bus schedule with them. We looked at the schedule and we talked about how long the bus ride took, when they (Robin, Carmelo & Joseph) got on the bus, and how long it took to get where they were going...

When we went into the jury after arguments, some people were saying "they don't have a case." I originally believed they were talking about the prosecution. But later, I realized that more than half of the jurors were talking about how the defense had not proven their case.

(CT 453-454.) The clear import of this discussion between jurors is that they did not apply the court's instruction on the burden of proof in a criminal case.

(CALJIC Nos. 2.61, 2.90, 2.91; CT 334, 340-341; RT 1219, 1222-1223. Also, see, RT 93-94.) Juror Karen P. also advised Maggie Richards, Green's investigator, that "a couple" of jurors commented on Green's failure to testify in his own defense being an indication of his guilt. (See Maggie Richards' sworn declaration at, CT 473-474.)

The instructions placing the burden of proof on the prosecution are grounded in the Due Process Clause of the Fourteenth Amendment of the United States Constitution and play a vital role in the American scheme of criminal

Continuation Of "Ground 3"; Page #4

1 procedure. The jurors clearly disobeyed the court's  
 2 instructions regarding burden of proof when, according to  
 3 the declaration of juror Karen P. more than half the  
 4 jurors said, during deliberations, that the defense had  
 5 not proven their case. There is nothing in the record  
 6 to suggest that the credibility of Karen P.'s declaration  
 7 on this issue was questioned, and it certainly was not  
 8 countered. There is no case law or other authority that  
 9 Green is aware of that states that the declaration of a  
 10 single juror cannot establish misconduct, that offending  
 11 jurors must be identified by name, or that all twelve  
 12 jurors must disobey court instructions in order to  
 13 establish misconduct. Indeed, one juror is enough.

14 The instruction that no inference is to be drawn  
 15 from a defendant's failure to testify is grounded in  
 16 the Fifth and Fourteenth Amendments of the United States  
 17 Constitution. The jury was instructed as follows:  
 18 "A defendant in a criminal trial has a constitutional  
 19 right not to testify. You must not draw any  
 20 inference from the fact that a defendant does not  
 21 testify. Further, you must neither discuss this matter  
 22 nor permit it to enter into your deliberation in any  
 23 way." (CALJIC 2.60; CT 333; RT 1219.) The jurors  
 24 misconduct in disobeying this instruction was inherently  
 25 and substantially likely to have influenced and biased the

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Continuation Of "Ground 3"; Page #5

involved jurors so as to prejudice GREG.

There are hardly two matters more basic to a fair jury trial than the principles embodied in the instructions referred to above.

Juror John Elwood, in his declaration given to counsel for co-defendant Joseph Diggs states under oath. Among other things:

During our deliberations we prepared a time line... for the evening of the incident. We were particularly concerned with the period between 7:30 pm and 8:35 pm on the night of the shooting. To help reconstruct what happened during that period, we consulted bus schedules that jurors Alvin Bernstein and Monnell Beuermann brought in on the second day of deliberations. These schedules provided us information about the intervals between buses and the frequency with which buses came; this information along with court testimony and statements helped us to fill in our time line from 7:30 pm until 8:35 pm on the night of the shooting...

There was also discussion about access to guns which was in reference to defendant GREG BROWN'S prior arrest.

There were also discussions about defendant GREG BROWN being a drug dealer and his propensity for violence and drugs and that kind of lifestyle. This was mostly in reference to defendant BROWN'S state of mind.

## Continuation Of "Ground 3"; Page #6

Some jurors also discussed that as a drug dealer, Brown's state of mind may be twisted and power hungry. Some jurors also discussed that as a drug dealer, Brown might feel that there would be no consequences to his actions if he killed Robin Williams. The jurors who brought up discussions of def. Brown's lifestyle were reminded by other jurors that this line of discussion was speculation and could not be considered in deliberations.

Someone also made reference to the fact that if you do crack cocaine, it does not mean you lose your memory.

(CT 451-452.) This statement taken on its face is clearly juror bias of the worst sort in and of itself. Nonetheless, juror Jordan Owens corroborated the fact that jury did in fact disregard and disobey the court's instructions and considered the seizure of a gun and drugs from defendant Gregory Brown as evidence of his guilt in the charged crimes. (Declaration of Maggie Richards At, CT 473-474.)

Early in the prosecution case, the trial court gave the following limiting instruction to the jury regarding the evidence seized during the January 6, 1995 arrest of Greg. The court admonished:

[T]he evidence or testimony that's being received at this point regarding the gun and cocaine seized at 126 Blythdale on January 26<sup>th</sup> [sic], 1995, in the presence of Mr. Brown is being offered only to show motive for Mr. Brown to

Continuation Of "Ground 3"; Page #7

from Mr. Williams. You may not consider this evidence for any other purpose at this time.

(RT 347-349.) After the completion of the presentation of all of the evidence, the court gave the jury the following instructions:

Evidence was introduced of an arrest on January 6, 1995 of defendant Gregory Brown and seizure of guns and drugs from the premises of 126 Blythdale. This evidence was admitted and may be considered by you only for the purpose of showing a possible motive for the commission of the crimes charged. You're to consider this evidence only for the purpose of determining whether such motive exists and for no other purpose. Such evidence, if believed, was not received and may not be considered by you to prove that defendant Gregory Brown is a person of bad character or that he has a disposition to commit crimes. Such evidence was received and may be considered by you only for the limited purpose of determining if it tends to show a motive for the commission of the crimes charged. For the limited purpose for which you may consider such evidence, you must weigh it in the same manner you do all other evidence in this case. You're not permitted to consider such evidence for any other purpose.

Evidence that a gun was seized on January 6th, 1995, may not be considered by you to infer or prove that any of the defendants had a gun on February 7th, 1995, when Robin Williams was shot.

Certain evidence was admitted for a limited purpose. At the time this testimony was admitted you were admonished it could not be considered by you for any purpose other than the limited purpose for which it was admitted. Do not consider such evidence for any purpose except the limited purpose for which it was admitted.

Continuation Of "Ground 3"; Page # 8

(RT 1213-1215.) These instructions were also provided to the jury in written form during their deliberations. (CT 306, 318-320, 323.)

Jurors clearly disregarded and disobeyed these instructions. Far from limiting their consideration of the evidence of the gun and cocaine to the issue whether Greer had a motive to harm Williams, jurors discussed that the January 6, 1995 gun and cocaine evidence showed that Greer had "access to guns," was "a drug dealer," had a "propensity for violence and drugs," had a "twisted and power hungry state of mind," and felt that "there would be no consequences to his actions if he killed Robin Williams." The fact that some jurors reminded other jurors not to consider this line of discussion does not indicate whether any or all of the improper discussion ceased, and there is no indication that the reminder was given by the jury foreman or otherwise carried special authority. And the reminder could not erase the previous improper discussion. The record is without any contradictory declarations on this issue. Nor is there any indication in the record that the prosecutor or the trial court questioned the credibility of juror John Elwood's declaration on this subject.

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Continuation Of "Ground 3"; Page # 9

The declaration of GREG's trial defense investigator, Maggie Richards, states, among other things:

On May 30, 1995, I spoke with juror KAREN Pemberton by telephone. At that time, she told me she heard "a couple" jurors discussing the fact that defendant Gregory Brown did not testify in his own defense, and that this was an indication of guilt.

On May 30, 1995, I spoke with juror ALVIN Bernstein by telephone. He told me that in jury deliberations ... jurors did consult maps and bus schedules.

On May 30, 1995, I spoke with juror JORDAN T. Owens by telephone. She told me that the jury considered as evidence of one of defendants having shot the victim that there were guns in Gregory Brown's possession, and that he was a drug dealer.

(CT 473-474.)

The sworn declarations of jurors John Elwood and Karen Pemberton and that of investigator Maggie Richards, demonstrate that the jurors consulted bus schedules and/or maps during deliberations. The record shows that neither were admitted into evidence at trial. It is juror misconduct to consider and discuss "evidence" other than that which was received at trial, whether a juror acted intentionally or inadvertently in being exposed to the outside source of information.

The jurors were also specifically instructed:

You must decide all questions of fact in this case from the evidence received in this trial and not from any other source...

Continuation Of "Ground 3"; Page #10

You must not make any independent investigation of the facts ... NOR consider NOR discuss facts as to which there's NO EVIDENCE.

(CALJIC 1.03; CT 313; RT 1210.) Clearly, the jurors use of the bus schedules constituted misconduct.

Timing was an important issue in this case. The prosecution theory was that Fain, Diggs and Williams left 126 Blythdale at around 7:30 p.m., walked to the bus stop, waited for the bus, rode the bus for twenty to twenty five minutes, and walked a block and a half, before co-defendants Fain and Diggs shot Williams. The wounded Williams was first discovered around 8:30 p.m. There is no evidence that Fain or Diggs were anywhere in sight at that time. Given all of this, plus the co-defendants' denial of any involvement in Williams' shooting, the expert witness evidence regarding Williams' monetary problems, and the defense theories that third parties were responsible, the jury plainly had a question as to whether all that Williams described could have happened within the one hour time period. Thus, they obviously felt a need to fill in important gaps in the prosecution case time line, and used the bus schedules to do so. Inasmuch as Greg's culpability as a conspirator rested on the jury's evaluations of the actions of Fain and Diggs and on the credibility and reliability of Williams' testimony, the jury's consultation of the bus schedules to bolster the prosecution's case was prejudicial to Greg.

Continuation Of "Ground 3"; Page # 11

1 The sworn declaration of juror John Elwood makes clear  
 2 that a juror injected his own outside expertise into deliberations.  
 3 The comment of a juror that if you do crack cocaine it does not  
 4 mean you lose your memory is also misconduct. The relationship  
 5 between crack cocaine use and memory loss is not a subject of  
 6 commonplace knowledge. Moreover, the juror comment is not  
 7 a reasonable interpretation of expert witness psychiatrist  
 8 Eugene Schoenfeld trial testimony. (RT 932-935.) The juror  
 9 who made the comment regarding cocaine and memory was,  
 10 clearly relying on first hand experience, observation, or study.  
 11 As such, his comment injected his outside expertise into the  
 12 deliberations, which constituted misconduct.

13 Here, the evidence is so very slim against GREG, non-  
 14 existent by most standards, that a very minimal amount of  
 15 error can have a substantial weight in affecting the verdict.  
 16 All that ties GREG to the shooting of Robin Williams is, the  
 17 January 6 arrest, and his connection to the delivery of a  
 18 purportedly threatening note. Other than his presence earlier  
 19 in the day, there is nothing connecting GREG to the events  
 20 leading up to Williams' shooting. Absent the varieties of jury  
 21 misconduct in this case, no trier of facts could have  
 22 found GREG guilty of the crimes charged.

23 As stated herein, the defense counsels explicitly asked  
 24 the jury material questions during voir dire which the  
 25 jury intentionally failed to respond honestly to; specifically,  
 26 the jury concealed their unwillingness to (1) follow the court's

Continuation Of "Ground 3"; Page #12

1 instructions; (2) give the defendants, particularly GREG, the  
 2 presumption of innocence; (3) vote not guilty if the  
 3 prosecution failed to produce evidence of the defendants' guilt  
 4 beyond a reasonable doubt; AND (4) ASCERTAIN THE  
 5 "difference between a mere suspicion, a creating of a  
 6 suspicion AND creating evidence that convinces beyond a  
 7 REASONABLE doubt." (RT 132; 136-137; 140-141; 147. Also,  
 8 see, this Ground at pages 1 & 2.)

9 The jury's failure to respond honestly to the defense  
 10 counsels' questions during voir dire violated GREG's right to a  
 11 fair trial, an impartial jury, due process, confrontation,  
 12 AND A VERDICT BASED ON ADMISSIBLE trial evidence under the  
 13 Fifth, Sixth AND Fourteenth Amendments of the United  
 14 States Constitution; AND was the direct cause of the  
 15 violation set forth in Ground 1.

16 Based on the above, the Court must grant habeas  
 17 relief to GREG on this ground along with any other  
 18 relief the Court deems fair and just.

7. Ground 2 or Ground 4 (if applicable): "Ground 4"; Page #1

GREG'S RIGHT TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED WHEN COUNSEL FAILED TO: CHALLENGE OVERT ACTS; OBJECT TO FALSE AND UNSUPPORTED MATERIAL STATEMENTS AT TRIAL; AND USE PREEMPTORY CHALLENGE TO EXCUSE A BIAS JUROR.

a. Supporting facts:

TRIAL COUNSEL'S FAILURE TO MAKE AN OBVIOUS CHALLENGE OF OVERT ACTS CONSTITUTES INEFFECTIVE TRIAL REPRESENTATION.

TRIAL COUNSEL FAILED TO CHALLENGE THE VALIDITY AND THE LEGALITY OF THE OVERT ACTS IN HIS MOTION TO DISMISS (CALIF. PENAL CODE SEC. 995 MOTION). (CT 70, 152; RT 27.) TO SUPPORT A CRIME OF CONSPIRACY, THE PROSECUTION MUST PROVE THE COMMISSION OF AN OVERT ACT BY ONE OR MORE OF THE PARTIES ENGAGED IN THE AGREED UPON CONSPIRACY. IN THIS CASE, ONLY FOUR OVERT ACTS IN SUPPORT OF THE CONSPIRACY WAS RELATED TO GREG (Nos. 2, 4, 5, AND 6). OVERT ACT NO. 2 ALLEGED THAT GREG TOOK A PHOTO AND GAVE IT TO WANDA FAIR; NO. 4 ALLEGED THAT GREG ACCOMPANIED FAIR TO DELIVER A NOTE; NO. 5 ALLEGED THAT GREG ENCOURAGED FAIR AND JOSEPH DIGGS TO MURDER ROBIN WILLIAMS; AND NO. 6 ALLEGED THAT GREG AND FAIR RESIDED AT 126 BLYTHDALE. (CT 1-4.) AS STATED IN "GROUND 1" AND SUPPORTED BY THE RECORD, THERE WAS NO FINDING OF OVERT ACT NO. 6; NO EVIDENCE TO SUPPORT NO. 5; AND NOS. 2 AND 4 FAIL BECAUSE (1) THERE IS NO EVIDENCE OF AN AGREEMENT  
(SEE CONTINUATION, ADDITIONAL PAGE)

b. Supporting cases, rules, or other authority:

STICKLAND V. WASHINGTON, 466 U.S. 668 (1984); BRECHT V. ABRAHAMSON, 507 U.S. 619 (1993); DONNELLY V. DECHRISTOFORO, 416 U.S. 637 (1974);

Continuation of "Ground 4"; Page #2

1 between GREG and ANYONE to commit murder and (2) they  
2 do not meet the legal requirement of an overt act.

3 In light of the fact that GREG pled not guilty to the  
4 crimes accused (CT 9-11), any reasonably effective  
5 counsel would have moved to challenge all evidence against  
6 his client in which the prosecution relies upon to obtain a  
7 conviction. It is reasonable to assume that had counsel  
8 challenged the overt acts, the prosecution would have  
9 been forced to produce sufficient evidence to support each  
10 act or run the risk of having one or more acts dismissed.

11 As shown herein, the mentioned overt acts were either not  
12 acts in and of themselves or unsupported or lacked  
13 finding. Therefore, had counsel challenge the overt acts,  
14 it is more than likely that one or more or all of the acts  
15 would have been dismissed which would have further weakened  
16 the prosecution's case or resulted in the entire case against  
17 GREG being dismissed, because, the essence of a conspiracy  
18 lies within the commission of an overt act.

19 Here, the prosecution's case against GREG is non-existent  
20 by most standards, therefore, a minimal of error such as  
21 the failure to challenge the overt acts contributed to and  
22 proximately caused the subjection of GREG to an unfair trial,  
23 a bias jury, prosecutorial misconduct, and a conviction on  
24 less than proof beyond a reasonable doubt. Counsel's failure  
25 to challenge the overt acts in question amount to  
26 defective and ineffective representation.

Continuation Of "Ground 4"; Page # 3

1 Trial counsel's failure to make meritorious objections to  
 2 false and unsupported material statements at trial constitutes  
 3 ineffective trial representation.

4 As stated in "Ground 2" and supported by the record,  
 5 in closing arguments, the prosecutor told the jury that  
 6 Wanda Fain wrote the note "for Gregory Brown," (RT 1349.)  
 7 and "... he (GREG) can get her (Robin Williams) out to  
 8 Jerrold Avenue and shoot her and leave her dead through  
 9 the other two (Fain and Joseph Diggs)." (RT 1349.)

10 The prosecutor further repeatedly exhorted the jury to bring  
 11 in a "guilty" verdict, not based on the evidence, but  
 12 "because they did it." (RT 1350.) There was not a  
 13 scintilla of evidence presented at trial that supports  
 14 any of those false material statements. Any reasonably  
 15 effective counsel would have fervently objected to each  
 16 and every one of those improper statements, particularly,  
 17 in light of the fact that closing arguments are limited  
 18 to the issue in the case and the evidence that has been  
 19 presented. Counsel's new objections to the false and  
 20 unsupported material statements allowed the prosecutor  
 21 to: (1) argue facts that are not supported by the  
 22 evidence in the record; (2) inject his personal beliefs  
 23 and opinions; (3) influence and inflame the jury's  
 24 prejudices against GREG; (4) encourage the jury to  
 25 disregard the court's instruction regarding innocence  
 26 and guilt; and (5) divert the jury's attention from

Continuation Of "Ground 4"; Page #4

1 its duty to decide the case on the merit of the evidence  
 2 presented at trial. Moreover, counsel's non-objections gave  
 3 credence to the prosecutor's baseless opening statements.

4 Had counsel objected to the improper statements,  
 5 the objections would have undoubtedly resulted in the  
 6 judge ordering the jury to disregard the statements which  
 7 would have put the jury on notice that they are not  
 8 allowed to consider the improper statements, and that alone  
 9 could have changed the outcome of the trial. However,  
 10 counsel's failure to object to the false and unsupported  
 11 material statements resulted in and contributed to and  
 12 proximately caused Green's convictions for the crimes  
 13 accused and subjected him to an unfair trial, a bias jury,  
 14 prosecutorial misconduct, and a conviction on less than  
 15 proof beyond a reasonable doubt. Counsel's non-objections  
 16 to the statements in question amount to defective and  
 17 ineffective representation.

18 Trial counsel's failure to use preemptory challenge to  
 19 excuse a potential bias juror from the jury panel constitutes  
 20 ineffective trial representation.

21 Here, during voir dire, juror John Elwood was  
 22 questioned and answered as follows:

23 Mr. Fuetsch (co-defendant Wanda Fain's defense counsel):

24 "Does anyone have a problem or would they have  
 25 a problem with following the instructions of the court even  
 26 if the result that would be reached by following the

Continuation Of "Ground 4"; Page #5

1 INSTRUCTIONS OF THE COURT WERE CONTRARY TO YOUR GUT  
2 RETENTION IN A CASE AS SERIOUS AS THE THAT'S CHARGED HERE?"

3 PROSPECTIVE JUROR: "I THINK I WOULD HAVE A PROBLEM  
4 WITH IT."

5 MR. FUETSCH: "... COULD YOU EXPLAIN WHAT YOU MEAN  
6 BY YOU WOULD HAVE A PROBLEM WITH THAT?"

7 PROSPECTIVE JUROR: "I BELIEVE THERE'S A HIGHER  
8 AUTHORITY THAN LEGAL AUTHORITY THAT IS LIKE MORAL AUTHORITY,  
9 AND TO FOLLOW LIKE A SET OF RULES RATHER THAN MORE OF A  
10 MORAL THING, I THINK I WOULD BE HINDERED TO FOLLOW THE  
11 SET OF RULES THAT ARE OUTLINED BY LAW."

12 "... BUT I THINK IF YOU MISCONSTRUE THE CONSTITUTION  
13 OR BROADEN ITS ACTUAL AUTHORITY, THEN I THINK THAT  
14 COULD BE POTENTIALLY WRONG."

15 (RT 132-133.)

16 MR. ARIAN (BREG'S TRIAL COUNSEL):

17 "MR. ELWOOD, I HEARD YOU SAY SOMETHING ABOUT  
18 BROADENING THE AUTHORITY OF THE CONSTITUTION. DO YOU RECALL  
19 THAT COMMENT?"

20 PROSPECTIVE JUROR: "I DO."

21 MR. ARIAN: "I WONDER IF YOU COULD SAY ANY MORE  
22 ABOUT THAT. I DIDN'T GET YOUR COMPLETE THOUGHT."

23 PROSPECTIVE JUROR: "MY THOUGHT IS A LOT OF, LET'S  
24 SAY, SOMEBODY'S ON TRIAL, THE JURORS SIT THROUGH THE  
25 ENTIRE TRIAL, THEY HAVE A GUT FEELING THAT THESE DEFENDANTS  
26 ARE, LET'S SAY, GUILTY, BUT A LOT OF CIRCUMSTANTIAL

Continuation Of "Ground 4"; Page #6

1 EVIDENCE HAS BEEN BROUGHT IN AND IT'S BEEN FOUND -- OR A  
2 LEGAL ISSUE HAS BEEN BROUGHT UP, A MINOR LEGAL ISSUE THAT  
3 SPEAKS TO THEIR INNOCENCE. YOU'RE SUPPOSED TO THINK  
4 THEY'RE INNOCENT EVEN THOUGH THEY'RE GUILTY, BECAUSE IT'S  
5 A LEGAL ARGUMENT AND IT TAKES PRECEDENCE OVER HOW YOU FEEL."

6 MR. ARIAN: "YOU'RE SAYING THAT AS A JUROR YOUR GUT  
7 REACTION IS VERY IMPORTANT AND YOU'RE GOING TO PAY A LOT  
8 OF ATTENTION TO THAT?"

9 PROSPECTIVE JUROR: "IF YOU'VE LISTENED TO ALL THE  
10 FACTS AND YOU SAY, YES, THEY ARE INNOCENT OR GUILTY, BUT  
11 SOME LEGAL PRECEDENCE MAKES YOU DISMISS THAT, THEN I  
12 HAVE A BIG PROBLEM WITH THAT."

13 MR. ARIAN: "YOU MIGHT NOT BE ABLE TO DO THAT?"

14 PROSPECTIVE JUROR: "NO, I WOULD NOT."

15 MR. ARIAN: "WOULD THAT HOLD IF THE JUDGE AT THE  
16 CLOSE OF THE CASE INSTRUCTED YOU THAT YOU WERE TO CONSIDER  
17 THIS EVIDENCE IN A CERTAIN WAY AND THE INSTRUCTIONS OF THE  
18 JUDGE WENT COUNTER TO THE FEELINGS YOU JUST DESCRIBED."

19 PROSPECTIVE JUROR: "I REALLY DON'T KNOW SITTING  
20 HERE RIGHT NOW."

21 MR. ARIAN: "WOULD YOU HAVE TROUBLE WITH IT?"

22 PROSPECTIVE JUROR: "I WOULD HAVE MAJOR PROBLEMS."

23 (RT 142-143.)

24 THE COURT: "AT THIS POINT DOES ANY PARTY WISH  
25 TO ENTER A CHALLENGE FOR CAUSE?"

26 1111

Continuation Of "Ground 4"; Page # 7

But before you do that, Mr. Elwood, I was little unclear about your statements.

Let me just read this question to you again:

It [sic] important that I have your assurance that you will without reservation follow my instructions and rulings on the law and will apply that law to the case. To put it differently, whether you approve or disapprove of my instructions, it is your solemn duty to accept as correct my statements of the law. You may not substitute your own idea of what you think the law ought to be.

Would you be able to follow the law as given by me in this case?"

Prospective Juror: "I would, but I may have a problem with that, internal conflict."

(RT 158-159.)

As demonstrated, juror Elwood's responses during voir dire were evasive and misleading and concealed his unwillingness to follow the court's instructions. Any reasonably effective counsel would have used a preemptory challenge to excuse juror Elwood from the jury panel as a result of his explicit or implicit allegiance to his "gut" feelings opposed to the law and instructions given by the court. Moreover, Elwood's declaration illustrates an abundance of juror misconduct (CT 451-452.), therefore, it is reasonable to assume that Elwood's

Continuation Of "Ground 4"; Page #8

1 RELIANCE ON his gut feelings during deliberations, rather  
 2 than the Court's instructions, was influential in the jury's  
 3 decision to find GREG guilty of the crimes charged,  
 4 particularly since the verdicts were contrary to law.  
 5 COUNSEL'S failure to excuse potential bias Elwood from  
 6 the jury panel contributed to and proximately caused  
 7 GREG's deprivation of a fair trial and impartial jury.

8 GREG'S right to effective assistance of trial counsel  
 9 as guaranteed by the Fifth, Sixth and Fourteenth  
 10 Amendments of the United States Constitution was violated  
 11 when counsel failed to (1) challenge the overt acts;  
 12 (2) object to false and unsupported material statements  
 13 at trial; and (3) use preemptory challenge to  
 14 excuse the bias juror John Elwood from the jury panel.

15 (Attachment No. 1 affixed hereto is exact copies  
 16 of the court and the reporter's transcripts  
 17 referred to in this ground.)

18 Based on the above, the Court must grant  
 19 habeas relief to GREG on this ground along with  
 20 any other relief the Court deems fair and just.  
 21  
 22  
 23  
 24  
 25  
 26

Ground 2 or Ground 5 (if applicable): "Ground 5"; Page #1

GREG'S RIGHT TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED WHEN COUNSEL DELIBERATELY FAILED TO DISCOVER AND INCLUDE NON-FRIVOLOUS ISSUES INTO THE APPELLANT'S BRIEF.

a. Supporting facts:

IT WAS DEFECTIVE AND INEFFECTIVE REPRESENTATION OF APPELLATE COUNSEL WHEN COUNSEL FAILED TO RAISE ON APPEAL THE FOLLOWING NON-FRIVOLOUS ISSUES: (1) GREG'S CONVICTIONS ARE BASED ON LESS THAN PROOF BEYOND A REASONABLE DOUBT OF EVERY ELEMENT OF THE CHARGED CRIMES AS FULLY SET FORTH HEREIN AT GROUND ONE; (2) THE PROSECUTOR COMMITTED SEVERAL INSTANCES OF PROSECUTORIAL MISCONDUCT AS FULLY SET FORTH HEREIN AT GROUND TWO; (3) THE JURY FAILED TO RESPOND HONESTLY TO THE DEFENSE COUNSELS' QUESTIONS DURING VOIR DIRE AS FULLY SET FORTH HEREIN AT GROUND THREE; AND (4) TRIAL COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO CHALLENGE THE OVERT ACTS IN SUPPORT OF THE CONSPIRACY CHARGE; FAILED TO OBJECT TO THE FALSE AND UNSUPPORTED AND DECEITFUL MATERIAL STATEMENTS PRESENTED AT TRIAL BY THE PROSECUTOR; AND FAILED TO USE PREEMPTORY CHALLENGE TO EXCUSE JUROR JOHN ELWOOD, AS FULLY SET FORTH HEREIN AT GROUND FOUR. NONE OF THESE ISSUES ARE FRIVOLOUS.  
(SEE CONTINUATION, ADDITIONAL PAGE)

Supporting cases, rules, or other authority:

SMITH V. ROBBINS, 528 U.S. 259 (2000); BRECHT V. ABRAHAMSON, 507 U.S. 619 (1993); DONNELLY V. DECHRISTOFORO, 416 U.S. 637 (1974)

Continuation of "Ground 5"; Page #2

1 Any reasonably effective appellate counsel would have  
 2 raised each of the mentioned issues on direct appeal  
 3 to acquire the reversal of the lower court's judgment.

4 Appellate counsel raised the following claims on  
 5 appeal: insufficient evidence to prove conspiracy to  
 6 commit murder; insufficient evidence to prove  
 7 attempted murder; jury misconduct; remand for  
 8 resentencing under People V. Superior Court; and  
 9 joinder in co-defendants' arguments. Had  
 10 counsel incorporated the mentioned non-frivolous  
 11 issues into the appellate brief, the issues would have  
 12 provided evidentiary support for the claims raised  
 13 therein and contributed to the perseverance of a  
 14 successful appeal. However, appellate counsel's  
 15 failure to raise the issues in question deprived GREG  
 16 of a prosperous and triumphant appeal and the  
 17 right to effective representation of counsel on appeal  
 18 in violation of his Fifth, Sixth and Fourteenth  
 19 Amendments of the United States Constitution.

20 Based on the above, the Court must grant habeas  
 21 relief to GREG on this ground and any other relief  
 22 the Court deems fair and just.

8. Did you appeal from the conviction, sentence, or commitment? ☒ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

Court of Appeal of the State of Calif., First Appellate District, Division Four

b. Result Affirmed

c. Date of decision: JANUARY 28, 1998

d. Case number or citation of opinion, if known: No. A072126

e. Issues raised: (1) INSUFFICIENT EVIDENCE TO PROVE CONSPIRACY TO COMMIT MURDER;

(2) INSUFFICIENT EVIDENCE TO PROVE ATTEMPTED MURDER; (3) JURY MISCONDUCT; (4) REMAND FOR RESENTENCING UNDER PEOPLE V. SUPERIOR COURT; AND (5) JOINDER IN CO-DEFENDANT ARGUMENTS.

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

VICTOR BLUMENKRANTZ; P.O. BOX 9586; BERKELEY, CA 94709

9. Did you seek review in the California Supreme Court? ☒ Yes ☐ No. If yes, give the following information:

a. Result DENIED

b. Date of decision: April 29, 1998

c. Case number or citation of opinion, if known: S068320

d. Issues raised: (1) SAME AS ABOVE

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

THE ISSUES RAISED HEREIN ARE BASED ON MATTERS OUTSIDE THE RECORD ON APPEAL.

TRIAL AND APPELLATE COUNSEL WERE INEFFECTIVE IN FAILING TO RAISE THESE ISSUES.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. a. (1) Name of court: SUPERIOR COURT of SAN FRANCISCO  
 (2) Nature of proceeding (for example, "habeas corpus petition"): HABEAS CORPUS PETITION  
 (3) Issues raised: (a) (SEE: ATTACHMENT No. 2 AFFIXED HERETO.)  
 (b) \_\_\_\_\_  
 (4) Result (Attach order or explain why unavailable): DENIED; SEE ATTACHMENT No. 3  
 (5) Date of decision: MAY 30, 2007
- b. (1) Name of court: COURT of APPEAL of the STATE of CALIFORNIA  
 (2) Nature of proceeding: HABEAS CORPUS PETITION  
 (3) Issues raised: (a) (SEE: ATTACHMENT No. 2 AFFIXED HERETO.)  
 (b) \_\_\_\_\_  
 (4) Result (Attach order or explain why unavailable): DENIED; SEE ATTACHMENT No. 4  
 (5) Date of decision: JULY 5, 2007

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

(SEE: ATTACHMENT No. 2 AFFIXED HERETO.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

THE PETITION WAS DENIED BY THE SUPERIOR COURT of SAN FRANCISCO.  
AND BY THE COURT of APPEAL of the STATE of CALIFORNIA.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true. UNDER PENALTY OF PERJURY I ALSO DECLARE THAT THE

Date:

8/11/07 6/23/07

Gregory L. Brown  
 (SIGNATURE OF PETITIONER)

## Declaration of Service

CASE NAME: GREGORY L. BROWN V. WARDEN, SATF-CORCORAN PRISON

CASE No. : \_\_\_\_\_

I declare:

ON JUNE 23, 2007, I SERVED THE ATTACHED:  
GREG'S PETITION FOR WRIT OF HABEAS CORPUS BY PLACING A  
TRUE COPY THEREOF ENCLOSED IN A SEALED ENVELOPE WITH  
POSTAGE THEREON FULLY PREPAID, IN THE PRISON MAIL COLLECTION  
SYSTEM AT SATF-CORCORAN, IN CALIFORNIA, ADDRESSED  
AS FOLLOWS:

1.) FIRST DISTRICT COURT OF APPEAL  
350 McALLISTER  
SAN FRANCISCO, CA 94102-3600

2.) OFFICE OF THE ATTORNEY GENERAL  
455 GOLDEN GATE AVE., STE. 11000  
SAN FRANCISCO, CA 94102-3364

I declare under penalty of perjury that the  
foregoing is true and correct.

DATE: 6/23/07

Gregory L. Brown  
Gregory L. Brown



1 GREGORY L. BROWN  
2 J-82241  
3 P.O. Box 5246  
4 CORCORAN, CA 93212

5 GREG'S  
6 Copy

FILED

JUN 29 2007

Court of Appeal - First App. Dist.  
By DIANA HERBERT  
DEPUTY

7  
8 Court Of Appeal Of The State Of California  
9 First Appellate District, Division Four  
10 A118248

11 GREGORY L. BROWN,  
12 Appellant,

13 V.  
14

15 WARDEN, STATE-CORCORAN PRISON,  
16

No. \_\_\_\_\_

GREG'S Supporting Documents  
For The Petition For  
Writ Of HABEAS CORPUS  
SERVED ON JUNE 23,  
2007

17  
18  
19 GREGORY L. BROWN declares that:

- 20 1.) I am the appellant in the above entitled-action.  
21 2.) The documents attached hereto are supporting  
22 documents for the petition for writ of habeas corpus  
23 served on this court on June 23, 2007. Furthermore,

24 / / / /

25 / / / /

26 / / / /

1 under penalty of perjury I declare that the affixed  
2 supporting documents are exact copies of what I  
3 declare them to be as set forth in the said petition.

4 GREGORY L. BROWN, the appellant, declare under  
5 penalty of perjury that the foregoing is true and  
6 correct.

7  
8 DATE: 6/23/07

9 Respectfully submitted,  
10 Gregory L. Brown  
11 GREGORY L. BROWN,  
12 Appellant  
13  
14  
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2 of 2

ATTACHMENT 1

001  
**FILED**  
San Francisco County Superior Court

MAR 17 1995

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

ALAN CARLSON, Clerk  
*Nolan G. de Jesus*  
Deputy Clerk

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 159271
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>F. ANDREWS</b>
	)	
GREGORY BROWN, WANDA FAIN	)	
and JOSEPH DIGGS,	)	<u><b>INFORMATION</b></u>
	)	
	)	
Defendants	)	

COUNT I:

GREGORY BROWN, WANDA FAIN and JOSEPH DIGGS

are accused by the District Attorney of the City and County of San Francisco, State of California, by this Information, of the crime of felony, to wit: VIOLATION OF SECTION 182.1 OF THE CALIFORNIA PENAL CODE committed as follows: The said defendants on or about the 7th day of January, 1995 to the 7th day of February, 1995, both dates inclusive, at the City and County of San Francisco, State of California, did wilfully and unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of MURDER, in violation of Section 187 of the Penal Code, a felony; that pursuant to and for the purpose of carrying out the objects and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the County of San Francisco:

**OVERT ACTS**

OVERT ACT NUMBER 1

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did write a note containing threats against Robin Williams.

People v. Gregory Brown, et al.

SC 159271

Page 2

OVERT ACT NUMBER 2

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did put the note in an envelope with a photograph of Robin Williams which was taken by defendant Gregory Brown and which was given to Fain by defendant Gregory Brown.

OVERT ACT NUMBER 3

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did deliver the threatening note and photograph to Robin Williams.

OVERT ACT NUMBER 4

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Gregory Brown did accompany defendant Wanda Fain to deliver the threatening note to Robin Williams.

OVERT ACT NUMBER 5

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Gregory Brown did encourage defendants Wanda Fain and Joseph Diggs to murder Robin Williams.

OVERT ACT NUMBER 6

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Gregory Brown, Wanda Fain and Joseph Diggs did reside at the same address of 126 Blythdale Street in San Francisco.

OVERT ACT NUMBER 7

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendant Wanda Fain did provide cocaine base, also called "crack" cocaine, to Robin Williams.

People v. Gregory Brown, et al.

SC 159271

Page 3

OVERT ACT NUMBER 8

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendant Wanda Fain did encourage Robin Williams to go to Jerrold Street with defendants Wanda Fain and Joseph Diggs.

OVERT ACT NUMBER 9

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did get on the Number 15 bus with Robin Williams.

OVERT ACT NUMBER 10

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did exit the bus with Robin Williams at 3rd and McKinnon Streets in San Francisco.

OVERT ACT NUMBER 11

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did take Robin Williams with them to Jerrold Street with the intention of murdering Robin Williams.

OVERT ACT NUMBER 12

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did walk on Jerrold Street approaching Quint Street with Robin Williams.

OVERT ACT NUMBER 13

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that while walking with Robin Williams defendants Wanda Fain and Joseph Diggs did shoot Robin Williams in the back of the head with a 9mm semi-automatic pistol.

People v. Gregory Brown, et al.

SC 159271

Page 4

OVERT ACT NUMBER 14

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did shoot at Robin Williams again while she was lying on the ground.

USE OF FIREARM ALLEGATION PURSUANT TO PENAL CODE SECTION 12022.5(a)  
[As to defendant JOSEPH DIGGS only]:

It is further alleged that in the commission and attempted commission of the above offense, the said defendant, JOSEPH DIGGS, personally used a firearm, to wit, a 9 mm semi-automatic pistol, within the meaning of Penal Code Section 12022.5(a) and also causing the above offense to be a serious felony within the meaning of Penal Code Section 1192.7(c)(8).

ARMED WITH A FIREARM ALLEGATION PURSUANT TO PENAL CODE SECTION  
12022(a)(1)[As to defendants GREGORY BROWN and WANDA FAIN only]:

It is further alleged that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm, to wit, a 9 mm semi-automatic pistol, said arming not being an element of the above offense, within the meaning of Penal Code Section 12022(a)(1).

ALLEGATION OF FELONY COMMITTED WHILE ON BAIL AND ON OWN RECOGNIZANCE  
PURSUANT TO PENAL CODE SECTION 12022.1[As to defendant GREGORY BROWN  
only]:

It is further alleged that the defendant, GREGORY BROWN, committed the above offense while he was released from custody in a felony offense, on bail and on his own recognizance, within the meaning of Penal Code Section 12022.1.

COUNT II:

The said defendants GREGORY BROWN, WANDA FAIN AND JOSEPH DIGGS, are further accused by the District Attorney of the City and County of San Francisco, State of California, by this Information, of the crime of felony, to wit: VIOLATION OF SECTION 664/187 OF THE CALIFORNIA PENAL CODE committed as follows: The said defendant on or about the 7th day of February, 1995, at the City and County of San Francisco, State of California, did wilfully, unlawfully, and with malice aforethought attempt to murder ROBIN WILLIAMS, a human being.

## SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO - MINUTES

009

People of the State of California vs. GREGORY L. BROWN

☒ Present

SC #

159271-01

Assistant DA of Record

☐ Present

Attorney of Record

S. ARIAN

☒ Present

Clerk

JOSIE C. ROQUE

Judge

DAVID A. GARCIA

Reporter

JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Defendant has retained ARIAN/S, Esq.

Count	Code	Section	Degree	MC #	Plea
1	PC	182.1/F		01563370	NG
2	PC	664.187/F		01563370	NG

Defendant waives formal reading of the information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

## SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO - MINUTES

019

People of the State of California vs. WANDA LOUISE FAIN

☒ Present

SC # <b>159271-02</b>	Assistant DA of Record . <input type="checkbox"/> Present	Attorney of Record <b>F. FUETSCH</b> <input checked="" type="checkbox"/> Present
	Clerk <b>JOSIE C. ROQUE</b>	Judge <b>DAVID A. GARCIA</b>

Reporter

JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Court has appointed FUETSCH/F, Public Defender.

Count	Code	Section	Degree	MC #	Plea
2	PC	664.187/F	1	01559424	NG
3	PC	245(A).2/F		01559424	NG
1	PC	182.1/F		01559424	NG

Defendant waives formal reading of the Information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

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SUPERIOR COURT

IN THE CITY AND COUNTY OF SAN FRANCISCO

CISCO - MINUTES

011

People of the State of California vs. JOSEPH DIGGS

☒ Present

SC #

159271-03

Assistant DA of Record

F. ANDREWS

☐ Present

Attorney of Record

MARC SILVERSMIT

☒ Present

Clerk

JOSIE C. ROQUE

Judge

DAVID A. GARCIA

Reporter

JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Court has appointed SILVERSMIT/MARC, conflict counsel.

Count	Code	Section	Degree	MC #	Plea
2	PC	664.187/F	1	01559442	NG
3	PC	245(A).2/F		01559442	NG
4	PC	12021A1/F		01559442	NG
1	PC	182.1/F		01559442	NG

Defendant waives formal reading of the information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

105

**FILED** 070  
San Francisco County Superior Court

MAR 24 1995

ALAN CARLSON, Clerk  
BY: [Signature] Deputy Clerk

STEPHEN ARIAN, Attorney at Law  
State Bar No. 38939  
Pier 33 South, #200  
San Francisco, CA 94111  
(415) 434-1550

Attorney for Defendant GREGORY L. BROWN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA,	)	No. 159271 - 0/
	)	
Plaintiff,	)	NOTICE OF MOTION FOR
	)	DISMISSAL OF COUNTS I
vs.	)	AND II OF THE INFORM-
	)	ATION UNDER SECTION 995
GREGORY L. BROWN,	)	OF THE PENAL CODE
WANDA FAIN, and JOSEPH DIGGS,	)	
	)	Date: April 7, 1995
<u>Defendants.</u>	)	Time: 9:00 A.M.
	)	Dept: 23

To the District Attorney of the City and County of San Francisco and to FLOYD ANDREWS, Deputy District Attorney:

PLEASE TAKE NOTICE that on the 7 day of April 1995, at 9:00 A.M. or as soon thereafter as the matter may be heard in Department 23 of the above entitled court, defendant GREGORY L. BROWN, through counsel will move the court for dismissal of Count I and II of the indictment herein as it relates to said defendant GREGORY L. BROWN, and to strike the enhancement allegations as they relate to said GREGORY L. BROWN, all under Section 995 of the California State Penal Code.

This motion is made on the grounds that there is no competent evidence to show probable cause to hold defendant

4-24-95  
4-24-95  
7-23  
WR

9:00

152

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA VS.

ACTION NO. 159271

GREGORY L. BROWN -1  
 DEFENDANT PRESENT

WANDA LOUISE FAIN -2  
 DEFENDANT PRESENT

JOSEPH DIGGS -3  
 DEFENDANT PRESENT

F. Andrews  
 ASSISTANT D.A. PRESENT

S. Arian  
 DEFENSE COUNSEL PRESENT

F. Fuetsch PD  
 DEFENSE COUNSEL PRESENT

M. Silversmit  
 DEFENSE COUNSEL PRESENT

=====

CAUSE ON CALENDAR Mo. 995 PC (all); Mo. handwriting exemplar (Diggs)  
 Mo. discovery (Diggs); Motion for joinder in motions (Fain, Brown)

9:15 A.M.

The Court grants motion for joinder.

The Court grants the motion for discovery in part.

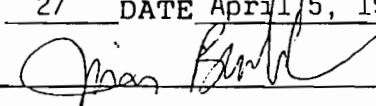
The Court grants the motion for handwriting exemplar.

9:30 A.M. The Court orders the matter continued to 1:30 P.M. for hearing on 995 PC motion.

2:50 P.M.

Hearing resumes. The Court grants the 995 PC motion as to defendant BROWN (Great Bodily Injury Allegation only). The 995 PC motion is denied in all other respects.

Defendants are given standing to participate in the 1538.5 PC hearing in case #159194 (Gregory Brown) Copy of proceedings had in that matter are attached and incorporated herein by reference.

DEPT. 27 DATE April 15, 1995 PAGE       ATTEST:  DEPUTY CLERK

MARC J. ZILVERSMIT, ESQ.  
RIORDAN & ROSENTHAL  
Attorney At Law  
523 Octavia Street  
San Francisco, CA 94102  
Telephone: (415) 431-3472

Attorney for Defendant JOSEPH DIGGS

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF CALIFORNIA	)	No. 159271
	)	
Plaintiff,	)	
	)	DECLARATION OF
vs.	)	<u>JUROR JOHN ELWOOD</u>
	)	
JOSEPH DIGGS,	)	
	)	
Defendant.	)	

I, John Elwood, declare under penalty of perjury that:

I was a juror in the case of People v. Joseph Diggs, Wanda Fain, and Gregory Brown, No. 159271.

During our deliberations we prepared a time line from January 6 to February 10 and made a time line for the evening of the incident. We were particularly concerned with the period between 7:30 pm and 8:35 pm on the night of the shooting. To help reconstruct what happened during that period, we consulted bus schedules that Jurors Alvin Bernstein and Monell Beurmann brought in on the second day of deliberations. These schedules provided us information about the intervals between buses and the frequency with which buses came; this information <sup>came along with testimony</sup> helped us fill <sup>in our</sup> ~~statement~~ time line from 7:30 pm until 8:35 pm on the night of the shooting

Declaration of John Elwood  
Page 1

"A"

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We also discussed a number of other things in our deliberations. We discussed the inconsistencies between defendant Wanda Fain's statement and defendant Joseph Diggs' statement. We discussed how these inconsistencies demonstrated that at least one of them was lying.

There was also discussion about access to guns which was in reference to defendant Greg Brown's prior arrest.

There were also discussions about defendant Greg Brown being a drug dealer and his propensity for violence and drugs and that kind of lifestyle. This was mostly in reference to defendant Brown's state of mind. Some jurors discussed that as a drug dealer, Brown's state of mind may be twisted and power hungry.

Some jurors also discussed that as a drug dealer, Brown might feel that there would be no consequences to his actions if he killed Robin Williams. *The jurors who brought up discussions of def. Brown's lifestyle were reminded by other jurors that this line of deliberation was speculation & could be dangerous*

Someone also made reference to the fact that if you do crack cocaine, it does not mean you lose your memory. *he said in deliberation*

Some jurors also discussed defendant Joseph Diggs' medical condition, specifically his tremor. Juror Jordan Owens stated that this might explain how Diggs could have shot at Robin Williams and missed. *SPK*

Executed this 5 day of JULY, 1995 in San Francisco, California.

*John Elwood*  
JOHN ELWOOD  
Declarant

Declaration of John Elwood  
Page 2

"A"

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1 record that Mr. Brown personally did it?

2 MR. ANDREWS: I don't believe that with the conspiracy  
3 count I have to prove personal great bodily injury.

4 THE COURT: Well, you read it. It says:

5 "It is further alleged in the commission of  
6 the above offense said defendant, with the  
7 intent to inflict such injury, personally  
8 inflicted great bodily injury on Robin Williams."  
If you look at page 6 of the Information.

MR. ANDREWS: If it's plead that way, it is incorrect.

The matter is submitted.

THE COURT: All right. Is the matter submitted?

MR. ARIAN: Submitted, your Honor.

THE COURT: All right. The Court will grant the 995  
Motion as to the great bodily injury allegation as to Mr.  
Brown. The other counts, the 995 motion is denied.

Let's go to the motion to suppress now.

All right. We will get started with it now. All right.  
Call your first witness.

MR. ANDREWS: Thank you, your Honor.

I will call Officer Walsh to the stand.

I will ask that Officer Jefferson be designated as my  
investigating officer.

THE COURT: All right.

MR. ARIAN: Your Honor, may I ask for an order excluding  
all witnesses?

THE COURT: Yes. All witnesses will be ordered excluded  
from the courtroom. You are not to discuss the testimony

1 instructions as it relates to how you are to conduct  
2 yourself. The process is as important as the product.

3 Does anyone have a problem or would they  
4 have a problem with following the instructions of the  
5 Court even if the result that would be reached by  
6 following the instructions of the Court were contrary to  
7 your gut reaction in a case as serious as the one that's  
8 charged here?

9 PROSPECTIVE JUROR: I think I would have a  
10 problem with it.

11 MR. FUETSCH: Do you feel as though --  
12 well, actually could you explain what you mean by you  
13 would have a problem with that?

14 PROSPECTIVE JUROR: I believe there's a  
15 higher authority than legal authority that is like moral  
16 authority, and to follow like a set of rules rather than  
17 more of a moral thing, I think I would be hardpressed to  
18 follow the set of rules that are outlined by law.

19 MR. FUETSCH: Let me ask you a pointed  
20 question. If, for example, and I'm not saying it's going  
21 to happen, if, for example, in the middle of the night  
22 the police came to your home and forced their way in and  
23 just searched your house and in your home discovered  
24 bombs, machine guns, bottom making material, whatever  
25 they discovered is illegal. And the prosecution sought  
26 to prosecute you for the crime of possessing that  
27 material or that item. There are laws, of course, that  
28 allow you as an individual through your attorney or

///

1 individually to challenge the admissibility of such  
2 evidence, and the basis or reason for the law that allows  
3 you to challenge such evidence is the law of the  
4 constitution. That is, while we may not condone your  
5 conduct in possessing that, we nevertheless must hold the  
6 authorities to a very high standard. In the case I've  
7 described, that evidence wouldn't be admissible against  
8 you to convict you.

9 Do you think that's wrong?

10 PROSPECTIVE JUROR: No. In that particular  
11 case I don't think that's wrong, but I think if you  
12 misconstrue the constitution or broaden its actual  
13 authority, then I think that could be potentially wrong.

14 MR. FUETSCH: But in the illustration I've  
15 given you --

16 PROSPECTIVE JUROR: That's fine, I wouldn't  
17 have any problem with that.

18 MR. FUETSCH: One individual, and I think  
19 actually it was you again, indicated that you had been  
20 attacked some years ago by someone, correct?

21 PROSPECTIVE JUROR: That's correct.

22 MR. FUETSCH: And you suffered a concussion  
23 as a result of that?

24 PROSPECTIVE JUROR: A mild concussion.

25 MR. FUETSCH: Has anybody else here  
26 suffered a severe injury, say in, for example, an  
27 automobile accident or been attacked, anything wherein  
28 they've lost consciousness as a result of that injury.

9 1 All of us have ways of looking at things that control the  
2 way we lead our lives. We may think of that as a bias,  
3 but it's there. In this rather imperfect process we try  
4 to get at that a little bit, and I'm sure you'll all  
5 agree this is an imperfect process.

6 In that connection, and I don't want  
7 anyone, as Mr. Zilversmit said, to think that any of us  
8 are picking on you. We're really not, but when we hear  
9 things we feel the necessity within the time allotted to  
10 us to explore it.

11 Mr. Elwood, I heard you say something about  
12 broadening the authority of the constitution. Do you  
13 recall that comment?

14 PROSPECTIVE JUROR: I do.

15 MR. ARIAN: I wonder if you could say any  
16 more about that. I didn't get your complete thought.

17 PROSPECTIVE JUROR: My thought is a lot of,  
18 let's say, somebody's on trial, the jurors sit through  
19 the entire trial, they have a gut feeling that these  
20 defendants are, let's say, guilty, but a lot of  
21 circumstantial evidence has been brought in and it's been  
22 found -- or a legal issue has been brought up, a minor  
23 legal issue that speaks to their innocence. You're  
24 supposed to think they're innocent even though they're  
25 guilty, because it's a legal argument and it takes  
26 precedence over how you feel. You're suppose to follow  
27 that rather than how you feel, and you're supposed to  
28 say, yes, in fact, they're innocent when you feel they're

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9 1 guilty.

2 MR. ARIAN: As I hear what you're telling  
3 me, and please correct me, you're saying that as a juror  
4 your gut reaction is very important and you're going to  
5 pay a lot of attention to that?

6 PROSPECTIVE JUROR: No, you pay attention  
7 to the facts, but I'm saying that the facts don't  
8 necessarily jibe with, let's say, some legal arguments  
9 that take precedence over the facts. If you've listened  
10 to all the facts and you say, yes, they are innocent or  
11 guilty, but some legal precedence makes you dismiss that,  
12 then I have a big problem with that.

13 MR. ARIAN: You might not be able to do  
14 that?

15 PROSPECTIVE JUROR: No, I would not.

16 MR. ARIAN: Would that hold if the judge at  
17 the close of the case instructed you that you were to  
18 consider this evidence in a certain way and the  
19 instructions of the judge went counter to the feelings  
20 you just described, would you be forced to go with your  
21 feelings or the higher moral law you found, or would you  
22 feel compelled to follow the instructions of the Court  
23 with respect to that specific issue that was presented?

24 PROSPECTIVE JUROR: I really don't know  
25 sitting here right now.

26 MR. ARIAN: Would you have trouble with it?

27 PROSPECTIVE JUROR: I would have major  
28 problems.

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MR. ANDREWS: Was that a trial here on the third floor of the building?

PROSPECTIVE JUROR: Uh-huh.

MR. ANDREWS: Was that by any chance in front of the same judge?

PROSPECTIVE JUROR: No, it was not.

MR. ANDREWS: Was there a feeling on your part that it was as a result of a lack -- something lacking on the part of the police department?

PROSPECTIVE JUROR: No.

MR. ANDREWS: How about the District Attorney?

PROSPECTIVE JUROR: No.

MR. ANDREWS: When you say there was not enough evidence, was there an identification issue.

MR. ZILVERSMIT: I'll object. He's seeking to find out how this juror voted on that.

MR. ANDREWS: I didn't ask that.

THE COURT: Sustained.

MR. ANDREWS: Did you -- you don't have any problem with serving as a juror today on a similar kind of case?

PROSPECTIVE JUROR: No.

MR. ANDREWS: Thank you, Your Honor, I have nothing further.

THE COURT: At this point does any party wish to enter a challenge for cause?

But before you do that, Mr. Elwood, I was

1 little unclear about your statements.

2 Let me just read this question to you  
3 again: It important that I have your assurance that you  
4 will without reservation follow my instructions and  
5 rulings on the law and will apply that law to the case.  
6 To put it differently, whether you approve or disapprove  
7 of my instructions, it is your solemn duty to accept as  
8 correct my statements of the law. You may not substitute  
9 your own idea of what you think the law ought to be.

10 Would you be able to follow the law as  
11 given by me in this case?

12 PROSPECTIVE JUROR: I would, but I may have  
13 a problem with that, internal conflict.

14 THE COURT: I understand that. Okay.

15 Any party wish to exercise a challenge for  
16 cause? Please approach sidebar with the court reporter.

17 [Following bench conference not reported:]

18 MR. ZILVERSMIT: I have three challenges  
19 for cause, Judge. Wiley, Elwood and Lee.

20 Taking those, Mr. Lee because he obviously  
21 doesn't comprehend sufficient language to participate as  
22 a juror.

23 MR. ANDREWS: Are we doing --

24 THE COURT: Cause.

25 MR. ANDREWS: -- the whole 24 or just  
26 people in the box?

27 THE COURT: All 24.

28 MR. ZILVERSMIT: So Mr. Lee because of

5 . 1 The defense talk about, and it's all smoke  
2 and mirrors, he talks about all these other people who  
3 could want to kill her; it's the 240 pound guy, the 190  
4 pound guy, all these people.

5 And yet how does this work? How do you we  
6 get those people on Jerrold Avenue to shoot her in the  
7 head? It does not happen. How else do you figure it?

8 Robin is wandering down the street and --  
9 finish the sentence somehow. You can't. The only thing  
10 that works, the only thing that fits the physical  
11 evidence, the testimony of the witnesses, the taped  
12 statements, testimony from the experts, the only thing  
13 that works is that she's on Jerrold Avenue because she's  
14 following Joseph Diggs and Wanda Fain.

15 The only theory that fits about the note,  
16 Wanda is not writing this because she's mad, she's  
17 writing this for Gregory Brown. They're all in the same  
18 house. Gregory has got a problem, he's got a court case  
19 coming up. But he knows how to deal with this problem.  
20 Because he's got a gullible little girl, and he can get  
21 her out to Jerrold Avenue and shoot her and leave her for  
22 dead through the other two, and that's it. That would be  
23 easier. That will be clean. If they had done the wrong  
24 right and killed her, you wouldn't be here today because  
25 we wouldn't have any clue.

26 And that's all I have to say. I want you  
27 to look carefully at what you've heard, what you saw. If  
28 somebody said something on that stand, just because we're

in court, we're in a formal setting, everybody says "please" and "thank you," does not mean you should believe anything you hear here that you wouldn't believe outside those doors?

Use your common sense. You certainly shouldn't believe anything you've heard here unless it fits the evidence you've heard.

Based on that I'm asking you to find the defendants guilty of attempted murder of Robin Williams. Because they did it.

Conspiracy to commit murder.

Assault with a deadly weapon.

Possession of a firearm by an ex-felon.

Because they did it, for no other reason. They did it, and that's why you're here today.

Thank you, Your Honor.

THE COURT: Thank you, Mr. Andrews.

At this point, ladies and gentlemen, it's quarter to 5. I have about ten minutes worth of instructions to read you, the concluding instructions, then I want to go over the verdict forms with you which is going to take some time.

Rather than do that today we're going to reconvene tomorrow at 10. I will then finish the instructions, go over the jury forms, and we'll be finished.

I know one of you has a problem tomorrow, and hopefully you can change the appointment either later

ATTACHMENT 2

Response to Question #13a of this petition:

- (3) ISSUES RAISED: 1.) GREG'S CONVICTION WAS BASED ON less than proof beyond a reasonable doubt of every element of the charged crime; 2.) PROSECUTORIAL misconduct: the prosecutor introduced false and UNSUPPORT AND DECEITFUL material statements at trial; 3.) JURY misconduct: juror gave intentional false answers during voir dire; 4.) INEFFECTIVE ASSISTANCE of trial counsel; AND 5.) INEFFECTIVE ASSISTANCE of appellate counsel.

Response to Question #15 of this petition:

"EXPLAIN ANY delay in the discovery of the claimed grounds for relief AND IN RAISING the CLAIMS in this petition."  
INEFFECTIVE ASSISTANCE of trial AND appellate counsels. THE ISSUES RAISED HEREIN ARE ON MATTERS OUTSIDE THE RECORD ON APPEAL, AND GREG lacked basic education AND ALL legal knowledge, UNTIL NOW, to PURSUE the ISSUES HEREIN. MOREOVER, GREG HAS BEEN suffering from major depression AND mental illnesses SINCE AND AS A RESULT of his wrongful convictions AND imprisonment.

ATTACHMENT 3

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE CITY AND COUNTY OF SAN FRANCISCO

Department No. 22

IN THE MATTER OF THE APPLICATION )  
OF )

WRIT NO. 5568

GREGORY L. BROWN )

ORDER

ENDORSED  
FILED

*San Francisco County Superior Court*

Petitioner, )

MAY 30 2007

FOR A WRIT OF HABEAS CORPUS )

GORDON PARK-LI, Clerk

BY: CARLOS BARRAZA

Deputy Clerk

On April 25, 2007 this Court received a Petition for Writ of Habeas Corpus from petitioner Gregory L. Brown ("Petitioner"). On May 25, 1995, Petitioner was convicted of conspiring to commit murder and of attempted murder. On January 28, 1998, the First District Court of Appeal affirmed the judgment with sentencing modifications. On April 29, 1998, the California Supreme Court denied review. Petitioner is serving 56 years to life at Corcoran State Prison.

Petitioner seeks habeas relief on four grounds. He claims that the verdict was not supported by sufficient evidence and that the prosecutor "maliciously and intentionally introduced false and unsupported and deceitful material statements at trial." He also claims that jurors committed misconduct and that his trial and appellate counsel provided ineffective assistance of counsel.

Petitioner was convicted almost 12 years ago and the Court of Appeal affirmed his conviction over nine years ago. Under well-established California law, a petition should be filed as promptly as the circumstances allow. As a result, the petitioner must explain in detail and "justify any substantial delay in presenting a claim." (*In re Clark* (1993) 5 Cal.4th 750, 765); *In re Swain* (1949) 34 Cal.2d 300, 302.) Where there has been significant delay in seeking habeas relief, the petitioner must describe circumstances sufficient to justify or explain the delay. To avoid the bar of untimeliness, the petitioner has the burden of establishing: (1) the absence of substantial delay; (2) good cause

1 for the delay; or (3) that the claim falls within an exception to  
 2 the bar of untimeliness. (*In re Robbins* (1998) 18 Cal.4th 770,  
 3 781; see also *Clark, supra*, 5 Cal.4th at 775 ["[i]f a petitioner  
 4 had reason to suspect that a basis for habeas corpus relief was  
 available, but did nothing to promptly confirm those suspicions,  
 that failure must be justified"].)

5 As an initial matter, Petitioner's insufficient evidence  
 6 and juror misconduct claims are barred because they were raised  
 - and rejected - on appeal. Because these issues were  
 7 "previously raised and rejected on direct appeal, and because  
 the [P]etitioner does not allege sufficient justification for  
 8 the issues['] renewal on habeas corpus," the issues are  
 "procedurally barred from being raised again." (*Harris, supra*,  
 5 Cal.4th at 825; see also *In re Sakarias* (2005) 35 Cal.4th 140,  
 9 145.)

10 Petitioner's ineffective assistance of trial and appellate  
 11 counsel claims fail for two reasons. First, he has failed to  
 justify the delay in bringing these claims. Instead of alleging  
 12 facts to demonstrate good cause for the delay, Petitioner claims  
 that he "lacked basic education and all legal knowledge, until now"  
 13 and that he was somehow prevented from seeking relief because he  
 has "been suffering from major depression and mental illness."  
 14 These contentions have no merit. Petitioner does not allege when  
 he began suffering "major depression and mental illness," nor does  
 15 he allege how these conditions prevented him from seeking writ  
 relief. Moreover, Petitioner does not explain how his alleged lack  
 16 of "legal knowledge" prevented him from consulting his appellate  
 attorney about a possible claim for ineffective assistance of trial  
 17 counsel, or from contacting an attorney to inquire into the quality  
 of representation provided by his appellate counsel.  
 18

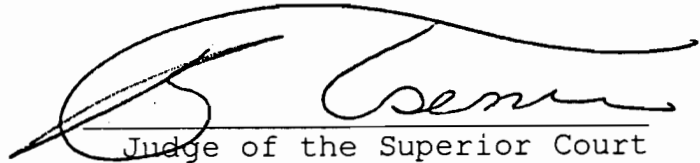
19 Even assuming Petitioner's ineffective assistance of  
 20 counsel claims are not time-barred, these claims fail because  
 Petitioner has not provided any documentation to support his  
 21 claims that his trial and appellate counsel provided ineffective  
 assistance. It is well settled that a petition for writ of  
 22 habeas corpus should: (1) state fully and with particularity  
 the facts upon which relief is sought; and (2) include copies of  
 23 reasonably available documentary evidence supporting the claim,  
 including pertinent portions of trial transcripts and affidavits  
 or declarations. (*People v. Duvall* (1995) 9 Cal.4th 464, 474.)  
 24 Conclusory allegations made without any explanation of their  
 basis do not warrant relief. (*People v. Karis* (1988) 46 Cal.3d  
 25 612, 656; see also *In re Swain* (1949) 34 Cal.2d 300, 303-304.)

Petitioner's failure to attach any supporting documentation to his petition prevents this Court from conducting a meaningful review of his ineffective assistance of counsel claims.

"To establish ineffective assistance of counsel . . . a defendant must show that counsel's representation fell below an objective standard of reasonableness under prevailing professional norms, and that counsel's deficient performance was prejudicial, i.e., that a reasonable probability exists that, but for counsel's failings, the result would have been more favorable to the defendant." (*Strickland v. Washington* (1984) 466 U.S. 668, 687-688; *People v. Waidla* (2000) 22 Cal.4th 690, 718.) Even assuming Petitioner's claims about his attorneys' conduct at trial and during his appeal are accurate, his claims fail because he has not demonstrated that his counsels' performance "fell below an objective standard of reasonableness" and that there is a reasonable probability that, but for counsel's alleged errors, "the result of the proceeding would have been different." (*People v. Ledesma* (1987) 43 Cal.3d 171, 218.) "When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." (*Ledesma, supra*, 43 Cal.3d at 218, citing *Strickland, supra*, 466 U.S. at 693-94].)

For the foregoing reasons, Petitioner's writ of habeas corpus is DENIED.

5/25/07  
Date

  
Judge of the Superior Court

## EXHIBIT D

**COPY**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

**FILED**

JUL - 5 2007

Court of Appeal - First App. Dist.  
DIANA HERBERT

by DEPUTY

In re GREGORY L. BROWN,  
on Habeas Corpus.

A118248

(San Francisco County  
Super. Ct. No. 5568)

BY THE COURT:

The petition for writ of habeas corpus is denied. Petitioner has not demonstrated good cause for a delay of over 9 years in seeking habeas relief, nor has he shown his petition should be considered under one of the exceptions to the requirement that habeas relief be timely sought. (See *In re Robbins* (1998) 18 Cal.4th 770, 780-781.) Further, some of the claims asserted in the petition are barred because they were raised and rejected on appeal. (*In re Waltreus* (1965) 62 Cal.2d 218, 225.)

(Ruvolo, P.J., and Rivera, J., joined in the decision.)

JUL - 5 2007

**RUVOLO, P.J.**

Date: \_\_\_\_\_ P.J.

ORIGINAL

**EXHIBIT E**

Name GREGORY L. BROWN  
 Address SATF - CORCORAN  
P.O. Box 5246  
CORCORAN, CA  
 CDC or ID Number J-82241

SUPREME COURT  
 FILED

AUG 10 2007

Frederick K. Ohlrich Clerk

DEPUTY

California Supreme Court  
 (Court)

GREGORY L. BROWN  
 Petitioner  
 vs.  
WARDEN, SATF - CORCORAN PRISON  
 Respondent

PETITION FOR WRIT OF HABEAS CORPUS

No. S155258

(To be supplied by the Clerk of the Court)

*Evidentiary Hearing Requested*

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form before answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

## This petition concerns:

- ☒ A conviction ☐ Parole  
☐ A sentence ☐ Credits  
☐ Jail or prison conditions ☐ Prison discipline  
☐ Other (specify): \_\_\_\_\_

1. Your name: GREGORY L. BROWN  
 2. Where are you incarcerated? SFTE - CALIFORNIA STATE PRISON  
 3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

COUNT I, CONSPIRACY TO COMMIT MURDER  
COUNT II, ATTEMPTED MURDER

- b. Penal or other code sections: COUNT I 182.1, 187; COUNT II 664/187  
 c. Name and location of sentencing or committing court: SUPERIOR COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, HALL OF JUSTICE, 830 BRYANT ST., S.F., CA 94103  
 d. Case number: No. 159271  
 e. Date convicted or committed: MAY 25, 1995  
 f. Date sentenced: OCTOBER 12, 1995  
 g. Length of sentence: 56 YEARS TO LIFE  
 h. When do you expect to be released? Immediately upon granting of this habeas  
 i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:  
STEPHEN AKIAN; P.O. Box 668; Kentfield, CA 94914

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: \_\_\_\_\_

5. If you pleaded not guilty, what kind of trial did you have?

☒ Jury ☐ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

## 6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

GREG'S RIGHT TO A FAIR TRIAL AND DUE PROCESS, AS GUARANTEED UNDER THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED AS A RESULT OF HIS CONVICTION ON LESS THAN PROOF BEYOND A REASONABLE DOUBT OF EVERY ELEMENT OF THE CHARGED CRIMES.

## a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

NO RATIONAL TRIER OF FACTS COULD HAVE FOUND THE ESSENTIAL ELEMENTS OF THE CRIMES CHARGED AGAINST GREG, BEYOND A REASONABLE DOUBT.

ON MARCH 17, 1995, PROSECUTOR FLOYD ANDREWS FILED HIS INFORMATION IN THIS CASE. COUNT I OF THE INFORMATION ACCUSED GREG OF CONSPIRACY TO COMMIT MURDER (CT 1.) AND COUNT II ACCUSED HIM OF ATTEMPTED MURDER (CT 4.). THE INFORMATION ALLEGED THAT THE ATTEMPTED MURDER WAS WILLFUL, DELIBERATE, AND PREMEDITATED. (CT 5.) AS TO THE ATTEMPTED MURDER COUNT, THE INFORMATION ALSO ALLEGED THAT GREG PERSONALLY INFLICTED GREAT BODILY INJURY UPON ROBIN "WILLIAMS." (CT 5.) THE INFORMATION SET OUT 14 OVERT ACTS IN SUPPORT OF THE CONSPIRACY ACCUSATION, NAMING GREG IN ONLY FOUR OVERT ACTS (Nos. 2, 4, 5 AND 6.). (CT 1-4.) OVERT ACT NO. 2 ACCUSED (SEE CONTINUATION, ADDITIONAL PAGE.)

## b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

IN RE WINSHIP, 397 U.S. 358 (1970); LEAVITT V. VASQUEZ, 875 F.2d 260 (1989) (9th Cir.);

Continuation Of "Ground I"; Page #2

1 GREG of taking a photo AND giving it to Wanda "FAIN";  
 2 No. 4 ACCUSED GREG of ACCOMPANYING FAIN to deliver a  
 3 NOTE; No. 5 ACCUSED GREG of ENCOURAGING FAIN AND  
 4 Joseph "Diggs" to murder Robin Williams; AND No. 6 ACCUSED  
 5 GREG AND FAIN of RESIDING AT 126 Blythdale. Overt Act  
 6 Nos. 2 AND 4 ARE meaningless IN the context of the  
 7 CONSPIRACY charge because there was NO EVIDENCE of ANY  
 8 AGREEMENT, BETWEEN GREG AND ANOTHER OR OTHERS  
 9 to commit murder. But, more importantly, those two  
 10 "acts" do NOT meet the legal requirement of an  
 11 "Overt Act." The jury made a determination that GREG  
 12 ENCOURAGED FAIN AND Diggs to murder Robin Williams  
 13 (Verdict, Overt Act No. 5), but there is NOT a shred of  
 14 admissible evidence presented at trial from which this  
 15 conclusion could logically be reached. And there was  
 16 NO finding of Overt Act No. 6. (Verdict, Overt Act No. 6.)  
 17 There was NO sufficient evidence of an Overt Act  
 18 supporting the charge of conspiracy to commit murder.  
 19 The crime of conspiracy is defined in the California Penal  
 20 Code (Sec. 182, subd. (a)(1), 184) as two or more persons  
 21 conspiring to commit any crime, together with proof of  
 22 the commission of an Overt Act by ONE OR MORE of the  
 23 parties to such agreement in furtherance thereof.  
 24 Conspiracy is a specific intent crime. The specific  
 25 intent required divides logically into two elements  
 26 (a) the intent to agree, or conspire, and (b) the intent

Continuation Of "Ground 1"; Page #3

1 to commit the offense which is the object of the conspiracy.  
 2 To sustain a conviction for conspiracy to commit murder,  
 3 the prosecution must show not only that the conspirators  
 4 intended to agree but also that they intended to kill  
 5 the victim.

6 The evidence introduced at trial, as it pertains to  
 7 GREG may be summarized as follows:

8 1.) He was arrested on January 6, 1995, at  
 9 126 Blythdale, while in possession of a handgun and  
 10 crack cocaine. Robin Williams made a statement to  
 11 police incriminating GREG.

12 2.) He was present when a purportedly threatening  
 13 note, written by co-defendant Wanda Fain, on paper from  
 14 a notebook belonging to Fain, was delivered to Williams.  
 15 The note came with a photograph of her taken by GREG  
 16 five years before.

17 3.) GREG and Williams met, and GREG agreed to  
 18 provide Williams unspecified remuneration if she would  
 19 refrain from testifying against him at an upcoming  
 20 preliminary hearing. The two resumed their previously  
 21 friendly relationship.

22 4.) GREG was present at 126 Blythdale on  
 23 February 7, until about 4:00 to 6:30 P.M. that evening.  
 24 Williams, Fain and Diggs left to take the bus about 7:30 P.M.

25 / / / /

26 / / / /

Continuation Of "Ground 1"; Page # 4

1 First, the January 6, arrest could only be considered on  
 2 the issue of Greg's motive to commit the crimes alleged.  
 3 (RT 347-348; 1213-1215.) Clearly, "motive" is not an  
 4 essential element of either crime charged. Indeed,  
 5 motive is different from intent (1 Witkin, California  
 6 Criminal Law (2<sup>nd</sup> edition 1988), sec. 100, p. 118), and  
 7 does not establish intent.

8 Second, the alleged threatening note was written by Fain  
 9 on her paper. (RT 727-729, 925.) It was delivered  
 10 about three weeks before the February 7, 1995 shooting of  
 11 Williams. A reasonable trier of facts could infer that  
 12 Greg was associated with the note, but it is not  
 13 reasonable to interpret the note as evidencing an agreement  
 14 between Fain and Greg to commit any crime, let alone an  
 15 agreement to kill Williams. Furthermore, about a week  
 16 and a half after Williams received the note, or about two  
 17 weeks before February 7, 1995, Williams and Greg  
 18 reconciled. (RT 520, 545-546, 557.) From that time  
 19 forward, up to and including February 7, 1995, Williams  
 20 visited with Greg every day or every other day. There is  
 21 no evidence to suggest that these approximately seven to  
 22 fourteen visits were anything but friendly. Indeed, Williams  
 23 testified that Greg specifically indicated to her that he  
 24 had no intention to hurt her. (RT 557.)

25 Third, given the evidence that Greg either lived at  
 26 126 Blythdale or was there often and Williams considered

Continuation Of "Ground 1"; Page #5

1 him her friend, nothing can be inferred from GREG's  
 2 PRESENCE AT OR ABSENCE FROM 126 Blythdale on the day  
 3 WILLIAMS WAS SHOT. WILLIAMS' trial testimony varied as to  
 4 WHEN GREG left on that day. (RT 547-530.) She also  
 5 testified that she did not remember when he left. (RT 551-  
 6 552.) At the March 6, 1995 preliminary examination,  
 7 she testified that he left early, around 4:00 P.M.  
 8 (RT 547-549, 551.)

9 Nowhere in the record is there any evidence from which  
 10 A RATIONAL INFERENCE may be made that GREG agreed with  
 11 ANYONE to take Robin Williams' life, or to do her any harm  
 12 At all. There is no evidence which even arguably shows  
 13 that GREG had an intent to kill WILLIAMS. There is  
 14 no evidence linking GREG to any weapon associated with  
 15 the shooting of WILLIAMS. There is no other physical  
 16 evidence linking GREG to the shooting of WILLIAMS. There is  
 17 no evidence of any discussions among GREG, FAIR, AND  
 18 Diggs regarding killing WILLIAMS. There is no evidence  
 19 that GREG had any connection to the trip that FAIR, Diggs,  
 20 and WILLIAMS took to Third Street. And there is nothing  
 21 in the statements that FAIR and Diggs gave to the police  
 22 that connected GREG to the shooting of WILLIAMS.

23 The fact that GREG knew FAIR and perhaps Diggs is  
 24 not sufficient. Mere association is not enough to  
 25 establish the essential elements of either crime alleged.

26 I I I I

Continuation Of "Ground 1"; Page #6

As shown above, there is no evidence to support the essential elements of the crime of conspiracy to commit murder.

Even less evidence exists with respect to the finding of the crime of attempted murder of Robin Williams. Where, as here, the prosecution has charge the attempt to be "willful, deliberate, and premeditated," it must adduce evidence from which it may be rationally inferred that, "... the would-be slayer (weighed and considered) the question of killing and the reason for and against such choice and, having in mind the consequences, decides to kill another human being." CALTIC § 8.67.

No such evidence exists in the record. Nor is there any evidence of the specific intent element needed to satisfy the attempted murder requirement. Such intent must be shown at the time of the overt act by which the attempt is manifested; and it cannot be inferred from the commission of another crime.

Another essential element of the crime of attempt is the requirement of a direct but ineffectual act done toward the commission of the act alleged. The act must be overt and unequivocal; it must constitute the beginning of the consummation of the attempted crime. Preparation alone is not sufficient.

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Continuation Of "Ground I"; Page # 7

1 Just as there is no evidence to support the elements  
 2 of GREG's conspiracy to commit murder conviction of  
 3 Robin Williams, there is no evidence to support the  
 4 elements of his attempted murder conviction of her.

5 There is no evidence to support a finding that GREG  
 6 had a specific intent to kill Williams. There is  
 7 no evidence that GREG attempted a direct but  
 8 ineffectual act of killing Williams. There is no evidence

9 that GREG participated in the shooting of Williams,  
 10 directly or indirectly. There is no evidence that GREG  
 11 aided and abetted an attempt to kill Williams. There is

12 no weapon or physical evidence linking GREG to the shooting  
 13 of Williams. There is no evidence that GREG even

14 suspected that FAIN, Diggs or anyone else had any  
 15 criminal intent towards Williams, and certainly no

16 evidence that he shared in any criminal intent toward her.

17 Furthermore, just as the note cannot support the  
 18 conspiracy conviction, it cannot support the attempted  
 19 murder conviction. GREG's presence when FAIN

20 delivered the note cannot be interpreted as providing  
 21 encouragement to FAIN, Diggs, or anyone else to shoot

22 Williams three weeks later; and the reconciliation

23 between Williams and GREG are irreconcilable with a  
 24 finding that GREG advised or encouraged the attempted  
 25 murder of Williams. Williams and FAIN reconciled also.

26 (RT 546-556.) Even putting aside the reconciliation

Confirmation Of "Ground 1"; Page #8

1 of Williams with FAIN and GREG, the attempted murder of  
2 Williams was NOT A REASONABLY FORESEEABLE CONSEQUENCE OF  
3 GREG'S standing on a porch while FAIN delivered a note and  
4 photograph to Williams.

5 Nonetheless, motive cannot supply the specific intent  
6 elements of Attempted murder. Nor can association establish  
7 either the requisite encouragement or intent to kill.

8 Nor can GREG'S brief presence at 126 Blythdale on the day  
9 of the shooting establish either the requisite encouragement  
10 or intent to kill, particularly, in light of the evidence  
11 that he either frequent or lived there.

12 A microscopic examination of the trial transcript  
13 fails to reveal ANY evidence from which a reasonable  
14 person could make a rational inference establishing any  
15 of the elements of conspiracy to commit murder and  
16 attempted murder.

17 GREG'S convictions for conspiracy to commit murder  
18 and attempted murder based on absent and/or less than  
19 proof beyond A REASONABLE doubt of EVERY ELEMENT OF  
20 the accused crimes violated his right to a fair trial  
21 and due process under the Fifth and Fourteenth  
22 Amendments of the United States Constitution.

23 Based on the above, the court must grant habeas  
24 relief to GREG and enter a judgment of Acquittal.

25 Acquittal is required because, At the close of the  
26 prosecution's case-in-chief, the trial court improperly

Continuation Of "Ground I"; Page #9

1 denied GREG's California Penal Code sec. 1118.1 motion for  
2 judgment of acquittal. (CT 48, 55; RT 1031-1037.)  
3 REVERSAL ALONE is not an adequate remedy because a retrial  
4 could then result, which would violate the state and  
5 federal constitutional prohibitions against double jeopardy.  
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7. Ground 2 or Ground 2 (if applicable): "Ground 2"; Page #1

GREG's right to a Fair Trial and Due Process, as guaranteed under the Fifth and Fourteenth Amendments of the United States Constitution, was violated when the prosecutor maliciously and intentionally introduced false and unsupported and deceitful material statements at trial.

a. Supporting facts:

It was prosecutorial misconduct and malicious prosecution for Floyd "Andrews," a former San Francisco prosecutor, to introduce false and unsupported and deceitful material statements at trial to acquire GREG's convictions for conspiracy to commit murder and attempted murder.

Prosecutor Andrews' false and unsupported material statements in his "Closing Arguments" at trial were so improper that it infected the trial with unfairness as to make GREG's convictions a denial of due process and a fair trial. In closing, Andrews told the jury that Wanda Fain wrote the note "for Gregory Brown," (RT 1349.) and "... he (GREG) can get her (Robin Williams) out to Jerold Avenue and shoot her and leave her dead through the other two (Wanda Fain and Joseph Diggs)." (RT 1349.) Andrews further repeatedly exhorted the jury to bring in a "guilty" verdict, not based on the evidence, but "because (SEE Continuation, Additional Page)

Supporting cases, rules, or other authority:

Darden v. Wainwright, 477 U.S. 168 (1986); Brecht v. Abrahamson, 509 U.S. 619 (1993); Donnelly v. DeChristoforo, 416 U.S. 637 (1974); In re Winship, 397 U.S. 358 (1970); Berger v. United States, 295 U.S. 78 (1935); Miller v. Pate, 386 U.S. 1 (1967)

Continuation Of "Ground 3"; Page #2

1 they did it." (RT 1350.) The trial record is devoid  
 2 of any evidence to support any of these accusations.  
 3 There was no evidence introduced at trial that showed  
 4 Fain wrote the note "for Gregory Brown." There was  
 5 no evidence introduced at trial that showed Greg had  
 6 any connection to the trip that Fain, Diggs and Williams  
 7 took to Jerrold Avenue. There was no evidence  
 8 introduced at trial from which a rational inference may  
 9 be made that Greg agreed with Fain, Diggs or anyone  
 10 else to take Robin Williams' life, or to do her any harm  
 11 at all. And nowhere in the trial record is there any  
 12 evidence as to who actually shot Williams.

13 As demonstrated above, not only did Andrews  
 14 failed to limit the scope of his closing arguments  
 15 to the evidence presented at trial but he also  
 16 deliberately and consciously introduced numerous false  
 17 and unsupported material statements which rested  
 18 exclusively on the issue of guilt. Additionally,  
 19 Andrews' exhortations of the jury to bring in a "guilty,"  
 20 verdict, by any means other than the evidence, "because  
 21 they did it" amount to malicious prosecution and  
 22 several instances of prosecutorial misconduct because:  
 23 (1) it was contrary to the evidence presented at trial;  
 24 (2) it was an injection of his personal opinion or belief;  
 25 (3) it influenced and inflamed the jury's prejudices  
 26 against Greg; (4) it encouraged the jury to

Continuation Of "Ground 2"; Page #3

1 disregarded the court's instructions concerning innocence  
 2 and guilt; and (5) it diverted the jury's attention from  
 3 its duty to decide the case on the merit of the evidence  
 4 presented at trial.

5 But, just as equally prejudicial, it negated the  
 6 fact that other people could have been responsible for  
 7 the shooting of Robin Williams. On cross-examination,  
 8 Williams was questioned about various persons who might  
 9 bear ill will towards her. In January 1994, just a  
 10 year prior to her shooting, Robin Williams was convicted  
 11 of a residential burglary, and named three black males  
 12 who were also involved. (RT 573, 587-588, 641.)

13 After that burglary, Corky, the boyfriend of the woman  
 14 whose house she had burglarized, beat her up. (RT 583.)  
 15 Williams had also incurred drug debts in the past.

16 (RT 576, 580.) However, she denied having any drug  
 17 debts on February 7, 1995, and did not remember ever  
 18 being threatened by drug dealers to whom she owed  
 19 money. (RT 576, 580, 582.) She said that she knew  
 20 Irwin Berry at Sunnydale, but did not remember him  
 21 hitting her with a gun because of some debts she owed  
 22 him. (RT 582.) She specifically denied owing any  
 23 money to a man named "Tails" from the Sunnydale area,  
 24 and said that she did not remember him coming up to  
 25 her the night before February 7, 1995 and pointing a  
 26 gun at her. (RT 581-582.) However, Darnie Hayes

Continuation Of "Ground 2"; Page #4

1 testified that she was talking on the telephone with a  
 2 friend at her home in the Sunnydale Projects on the  
 3 afternoon of February 6, 1995 when the friend said,  
 4 "Oh, my God, Tails pulled a gun on Robin." Robin  
 5 referred to Robin Williams. (RT 1005.) Hayes also  
 6 testified that sometime during the last couple of months  
 7 Phoebe's apartment at 56 Santos had caught on fire.  
 8 Williams and Phoebe were once roommates at 56 Santos.  
 9 (RT 1005-1006.) Over the years, Williams had gotten  
 10 into fights at Sunnydale. (RT 584-585.) Williams  
 11 admitted that she might have some enemies around  
 12 the city. (RT 586.)

13 Andrews' false and unsupported material statements  
 14 implanted in his closing arguments, whether individually  
 15 or collectively, so infected the trial outcome as to  
 16 create a genuine effect on the jury's verdict, especially  
 17 when considering the fact that the trial judge did not  
 18 instruct the jury to disregard the improper statements.  
 19 There is absolutely no way a rational jury could have  
 20 found Greg guilty of the crimes accused absent the  
 21 mentioned statements in Andrews' closing.

22 Prosecutor Andrews' intentional and malicious use  
 23 of false and deceitful material statements in his  
 24 "Opening Statements" at trial were so improper  
 25 that they infected the trial with unfairness as  
 26 to make Greg's resulting convictions a denial of due

Continuation Of "Ground 2"; Page #5

1 process and a fair trial. Andrews' opening statements  
 2 alleged, "She (Robin Williams) was shot because she made  
 3 a statement to the police about Gregory Brown, about  
 4 him selling drugs, about him having a gun. She was shot  
 5 to punish her for that statement and to prevent her from  
 6 testifying in future court appearances." (RT 314.)

7 Andrews failed to introduce any evidence at trial as to  
 8 why Robin Williams was shot. Andrews introduced no  
 9 evidence that Williams was shot because she made a  
 10 statement to the police "about Gregory Brown." Andrews  
 11 introduced no evidence that Williams was shot because her  
 12 statement mentioned Greg "selling drugs." Andrews  
 13 introduced no evidence that Williams was shot because  
 14 her statement mentioned Greg "having a gun." Andrews  
 15 introduced no evidence that Williams "was shot to  
 16 punish her for that statement" to the police.

17 Andrews introduced no evidence that Williams was shot  
 18 "to prevent her from testifying in future court  
 19 appearances." Furthermore, Andrews completely  
 20 failed to introduce any evidence at trial as to why  
 21 Williams was shot, and there was no trial evidence  
 22 as to why.

23 Moreover, Robin Williams' trial testimony totally  
 24 contradicted the improper statements given by Andrews in  
 25 his opening statements, while at the same time  
 26 exonerating Greg on all charges relating to her shooting.

Continuation Of "Ground 2"; Page #6

Williams testified at trial that on January 6, she was visiting GREG at 126 Blythdale, when the police came. She saw a gun in GREG's hand and a bag of crack in the other. (RT 511.) She made a statement to the police as to what she saw. (RT 513.) Some days later she was at a friend's house when Wanda "Fain" delivered a note to her, that included a photo of her taken some years before by GREG. GREG was nearby when the note was delivered, standing outside on a porch. (RT 515.) Fain said GREG wanted to talk to her. (RT 517.) She did not speak to GREG because she considered the note threatening and was scared. (RT 518.) About a week and a half later, she met GREG on the street and they spoke. He asked her to stay out of sight, and not to testify at his upcoming hearing, and in return he "would take care of" her as long as she didn't testify. (RT 519.) She was satisfied with the conversation and returned to her regular visits to 126 Blythdale, going there about every other day. She went there to talk to GREG and they were friends. (RT 520.) GREG never threatened her, and she believed he had no intention of hurting her. (RT 557.)

ANDREWS WAS AWARE THAT WILLIAMS WOULD TESTIFY AS SHE DID, BECAUSE IT WAS RELATIVELY A RECAPITULATION OF HER PRELIMINARY HEARING TESTIMONY. (RT 11-16; 51-52.) NEVERTHELESS, ANDREWS DELIBERATELY, CONSCIOUSLY AND

Continuation Of "Ground 2"; Page # 7

1 maliciously used false and deceitful material statements  
2 in his opening statements to manipulate the jury.

3 This fact is highlighted by Andrews' calculated  
4 (and successful) efforts to paint GREG AS A heartless  
5 dope dealer who has previously captured and corrupted  
6 the victim, Robin Williams. Thus, for example, in his  
7 opening statements Andrews said:

8 "Robin is going to tell you that she is addicted  
9 to cocaine, that she had been supplied  
10 cocaine by GREGORY BROWN and other people  
11 .... That she did a lot of things to  
12 get her poison. She'd go to Gregory Brown  
13 and get drugs there. She's traded drug  
14 for sex with Mr. Brown."

15 (RT 315, line 28; 316, line 1-7.) Of course, there was  
16 no evidence adduced at trial to support this assertion.  
17 Absent the maliciously false and deceitful statements  
18 embedded in Andrews' opening statements, no rational  
19 jury could have reached a guilty verdict against GREG  
20 because there was simply no evidence introduced at  
21 trial connecting him to the shooting of Robin Williams.  
22 Indeed, the improper statements created such a  
23 substantial and injurious effect on the jury's decision  
24 as to render GREG's convictions unconstitutional.

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Continuation Of "Ground 2"; Page #8

1 GREG'S right to a fair trial and due process, under  
2 the Fifth and Fourteenth Amendments of the United  
3 States Constitution, was violated as a result of several  
4 instances of prosecutorial misconduct as set forth herein.

5 Based on the above, the Court must grant JAMES  
6 relief to GREG on this ground and enter a judgment  
7 of acquittal because there is no evidence to support  
8 a re-trial.

7. Ground 2 or Ground 3 (if applicable):"Ground 3"; Page #1

GREG'S RIGHT TO A FAIR TRIAL AND IMPARTIAL JURY, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION WAS VIOLATED WHEN JURORS GAVE INTENTIONALLY FALSE ANSWERS DURING VOIR DIRE AND/OR COVERED UP FALSE STATEMENTS GIVEN THEREIN.

a. Supporting facts:

IN THE PRESENT CASE, JURORS COMMITTED MISCONDUCT WHEN THEY INTENTIONALLY GAVE FALSE ANSWERS DURING VOIR DIRE OR COVERED UP FALSE STATEMENTS GIVEN THEREIN WHICH VIOLATED GREG'S RIGHT TO DUE PROCESS, A FAIR TRIAL, AN UNBIAS JURY, CONFRONTATION, AND A VERDICT BASED ON ADMISSIBLE TRIAL EVIDENCE, AS GUARANTEED BY THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

DURING VOIR DIRE, MR. FUETSCH, DEFENSE COUNSEL FOR CO-DEFENDANT WANDA FAIR, ASKED THE JURY: "DOES ANYONE HAVE A PROBLEM OR WOULD THEY HAVE A PROBLEM WITH FOLLOWING THE INSTRUCTIONS OF THE COURT EVEN IF THE RESULT THAT WOULD BE REACHED BY FOLLOWING INSTRUCTIONS OF THE COURT WERE CONTRARY TO YOUR GUT REACTION IN A CASE AS SERIOUS AS THE ONE THAT'S CHARGED HERE?" (RT 132, LINES 3-8.) THE ONLY JUROR WHO INDICATED HE WOULD HAVE A PROBLEM WITH FOLLOWING THE COURT'S INSTRUCTIONS IS JUROR JOHN ELWOOD. (RT 132-133 (FROM LINE 3 OF 132 TO LINE 13 OF 133); 142-143 (FROM LINE 11 OF 142 TO LINE 28 OF 143); 158-159, LINE 28-13).

DURING VOIR DIRE, MR. ZILVERSMITZ, DEFENSE COUNSEL FOR CO-DEFENDANT JOSEPH DIGGS, ASKED JURORS MR. CASTILLO, MS. OWENS, MS. SMITH, AND  
(SEE CONTINUATION ADDITIONAL PAGE)

b. Supporting cases, rules, or other authority:

TEWIN V. DOWD, 366 U.S. 717 (1961); BRECHT V. ABRAMAMSON, 509 U.S. 619 (1993); DONNELLY V. DE-CRISTOFORO, 416 U.S. 637 (1974);  
IN RE WINSHIP, 397 U.S. 358 (1970); CARTER V. KENTUCKY, 450 U.S.  
288;

Continuation Of "Ground 3"; Page # 2

Mr. Bowen if they heard the judge's instruction on the presumption of innocence and whether they would be able to vote not guilty assuming there was no evidence to the contrary; each juror indicated they would. (RT 136-137.)

Mr. Ziversmit also asked the jury if they would be able to vote not guilty if the prosecution failed to produce evidence of the defendants' guilt beyond a reasonable doubt; none of the jurors indicated to the contrary. (RT 140-141.)

During voir dire, Mr. Adrian, Greg's trial defense counsel, asked the jury if any of them are confused about the "difference between a mere suspicion, a creating of a suspicion and creating evidence that convinces beyond a reasonable doubt"; none of the jurors indicated confusion. (RT 147.)

As demonstrated in the excruciating declarations of juror John Elwood, juror Karen Pemberton, and Maggie Richard, Greg's trial defense investigator, the jury failed to answer questions honestly during voir dire regarding whether or not they would follow the court's instructions.

1 Following the verdicts, all the defendants, including Greg, filed motions for new trial, alleging among other things, jury misconduct during deliberation. However, this ground, as well as all other grounds set forth in these papers, was not raised in the motions for new trial by defense counsels nor on direct appeal.

Continuation Of "Ground 3"; Page #3

Juror Karen Pemberton, in her declaration given to counsel for co-defendant Joseph Diggs states among other things:

During deliberations, a juror had a bus schedule with them. We looked at the schedule and we talked about how long the bus ride took, when they (Robin, Cornuk & Joseph) got on the bus, and how long it took to get where they were going...

When we went into the jury after arguments, some people were saying "they don't have a case." I originally believed they were talking about the prosecution. But later, I realized that more than half of the jurors were talking about how the defense had not proven their case.

(CT 453-454.) The clear import of this discussion between jurors is that they did not apply the court's instruction on the burden of proof in a criminal case.

(CALJIC Nos. 2.61, 2.90, 2.91; CT 334, 340-341; RT 1219, 1222-1223. Also, see, RT 93-94.) Juror Karen P. also advised Maggie Richards, Green's investigator, that "a couple" of jurors commented on Green's failure to testify in his own defense being an indication of his guilt. (See Maggie Richards' sworn declaration at, CT 473-474.)

The instructions placing the burden of proof on the prosecution are grounded in the Due Process Clause of the Fourteenth Amendment of the United States Constitution and play a vital role in the American scheme of criminal

Continuation Of "Ground 3"; Page #4

1 procedure. The jurors clearly disobeyed the court's  
 2 instructions regarding burden of proof when, according to  
 3 the declaration of juror Karen P. more than half the  
 4 jurors said, during deliberations, that the defense had  
 5 not proven their case. There is nothing in the record  
 6 to suggest that the credibility of Karen P.'s declaration  
 7 on this issue was questioned, and it certainly was not  
 8 countered. There is no case law or other authority that  
 9 GREG is aware of that states that the declaration of a  
 10 single juror cannot establish misconduct, that offending  
 11 jurors must be identified by name, or that all twelve  
 12 jurors must disobey court instructions in order to  
 13 establish misconduct. Indeed, one juror is enough.

14 The instruction that no inference is to be drawn  
 15 from a defendant's failure to testify is grounded in  
 16 the Fifth and Fourteenth Amendments of the United States  
 17 Constitution. The jury was instructed as follows:

18 "A defendant in a criminal trial has a constitutional  
 19 right not to testify. You must not draw any  
 20 inference from the fact that a defendant does not  
 21 testify. Further, you must neither discuss this matter  
 22 nor permit it to enter into your deliberation in any  
 23 way." (CALJIC 2.60; CT 333; RT 1219.) The jurors  
 24 misconduct in disobeying this instruction was inherently  
 25 and substantially likely to have influenced and biased the

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Continuation Of "Ground 3"; Page #5

involved jurors so as to prejudice GREG.

There are hardly two matters more basic to a fair jury trial than the principles embodied in the instructions referred to above.

Juror John Elwood, in his declaration given to counsel for co-defendant Joseph Diggs states under oath. Among other things:

During our deliberations we prepared a time line... for the evening of the incident. We were particularly concerned with the period between 7:30 pm and 8:35 pm on the night of the shooting. To help reconstruct what happened during that period, we consulted bus schedules that jurors Alvin Bernstein and Monnell Beukmann brought in on the second day of deliberations. These schedules provided us information about the intervals between buses and the frequency with which buses came; this information along with court testimony and statements helped us to fill in our time line from 7:30 pm until 8:35 pm on the night of the shooting...

There was also discussion about access to guns which was in reference to defendant GREG Brown's prior arrest.

There were also discussions about defendant GREG Brown being a drug dealer and his propensity for violence and drugs and that kind of lifestyle. This was mostly in reference to defendant Brown's state of mind.

Continuation Of "Ground 3"; Page #6

Some jurors also discussed that as a drug dealer, Brown's state of mind may be twisted and power hungry. Some jurors also discussed that as a drug dealer, Brown might feel that there would be no consequences to his actions if he killed Robin Williams. The jurors who brought up discussions of def. Brown's lifestyle were reminded by other jurors that this line of discussion was speculation and could not be considered in deliberations.

Someone also made reference to the fact that if you do crack cocaine, it does not mean you lose your memory.

(CT 451-452.) This statement taken on its face is clearly juror bias of the worst sort in and of itself. Nonetheless, juror Jordan Owens corroborated the fact that jury did in fact disregard and disobeyed the court's instructions and considered the seizure of a gun and drugs from defendant Gregory Brown as evidence of his guilt in the charged crimes. (Declaration of Maggie Richards At, CT 473-474)

Early in the prosecution case, the trial court gave the following limiting instruction to the jury regarding the evidence seized during the January 6, 1995 arrest of Greg. The court admonished:

[T]he evidence or testimony that's being received at this point regarding the gun and cocaine seized at 126 Blythdale on January 26<sup>th</sup> [sic], 1995, in the presence of Mr. Brown is being offered only to show motive for Mr. Brown to

Continuation Of "Ground 3"; Page # 7

from Ms. Williams. You may not consider this evidence for any other purpose at this time.

(RT 347-348.) After the completion of the presentation of all of the evidence, the court gave the jury the following instructions:

Evidence was introduced of an arrest on January 6, 1995 of defendant Gregory Brown and seizure of guns and drugs from the premises of 126 Blythdale. This evidence was admitted and may be considered by you only for the purpose of showing a possible motive for the commission of the crimes charged. You're to consider this evidence only for the purpose of determining whether such motive exists and for no other purpose. Such evidence, if believed, was not received and may not be considered by you to prove that defendant Gregory Brown is a person of bad character or that he has a disposition to commit crimes. Such evidence was received and may be considered by you only for the limited purpose of determining if it tends to show a motive for the commission of the crimes charged. For the limited purpose for which you may consider such evidence, you must weigh it in the same manner you do all other evidence in this case. You're not permitted to consider such evidence for any other purpose.

Evidence that a gun was seized on January 6th, 1995, may not be considered by you to infer or prove that any of the defendants had a gun on February 7th, 1995, when Robin Williams was shot.

Certain evidence was admitted for a limited purpose. At the time this testimony was admitted you were admonished it could not be considered by you for any purpose other than the limited purpose for which it was admitted. Do not consider such evidence for any purpose except the limited purpose for which it was admitted.

Continuation Of "Ground 3"; Page # 8

(RT 1213-1215.) These instructions were also provided to the jury in written form during their deliberations. (CT 306, 318-320, 323.)

Jurors clearly disregarded and disobeyed these instructions. Far from limiting their consideration of the evidence of the gun and cocaine to the issue whether Greer had a motive to harm Williams, jurors discussed that the January 6, 1995 gun and cocaine evidence showed that Greer had "access to guns," was "a drug dealer," had a "propensity for violence and drugs," had a "twisted and power hungry state of mind," and felt that "there would be no consequences to his actions if he killed Robin Williams." The fact that some jurors reminded other jurors not to consider this line of discussion does not indicate whether any or all of the improper discussion ceased, and there is no indication that the reminder was given by the jury foreman or otherwise carried special authority. And the reminder could not erase the previous improper discussion. The record is without any contradictory declarations on this issue. Nor is there any indication in the record that the prosecutor or the trial court questioned the credibility of juror John Elwood's declaration on this subject.

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Continuation Of "Grand 3"; Page # 9

The declaration of GREG's trial defense investigator, Maggie Richards, states, among other things:

On May 30, 1995, I spoke with juror KAREN Pemberton by telephone. At that time, she told me she heard "a couple" jurors discussing the fact that defendant Gregory Brown did not testify in his own defense, and that this was an indication of guilt.

On May 30, 1995, I spoke with juror Alvin Bernstein by telephone. He told me that in jury deliberations ... jurors did consult maps and bus schedules.

On May 30, 1995, I spoke with juror Jordan T. Owens by telephone. She told me that the jury considered as evidence of one of defendants having shot the victim that there were guns in Gregory Brown's past, and that he was a drug dealer.

(CT 473-474.)

The sworn declarations of jurors John Elwood and Karen Pemberton and that of investigator Maggie Richards, demonstrate that the jurors consulted bus schedules and/or maps during deliberations. The record shows that neither were admitted into evidence at trial. It is juror misconduct to consider and discuss "evidence" other than that which was received at trial, whether a juror acted intentionally or inadvertently in being exposed to the outside source of information.

The jurors were also specifically instructed:

You must decide all questions of fact in this case from the evidence received in this trial and not from any other source...

Continuation Of "Group 3"; Page #10

1 You must not make any independent  
 2 investigation of the facts ... nor consider  
 3 nor discuss facts as to which there's no  
 evidence.

4 (CALJIC 1.03; CT 313; RT 1210.) Clearly, the jurors use  
 5 of the bus schedules constituted misconduct.

6 Timing was an important issue in this case. The  
 7 prosecution theory was that Fain, Diggs and Williams left  
 8 126 Blythdale at around 7:30 p.m., walked to the bus stop,  
 9 waited for the bus, rode the bus for twenty to twenty five  
 10 minutes, and walked a block and a half, before co-defendants  
 11 Fain and Diggs shot Williams. The wounded Williams was first  
 12 discovered around 8:30 p.m. There is no evidence that Fain or  
 13 Diggs were anywhere in sight at that time. Given all of this,  
 14 plus the co-defendants' denial of any involvement in Williams'  
 15 shooting, the expert witness evidence regarding Williams' memory  
 16 problems, and the defense theories that third parties were  
 17 responsible, the jury plainly had a question as to whether  
 18 all that Williams described could have happened within  
 19 the one hour time period. Thus, they obviously felt a need  
 20 to fill in important gaps in the prosecution case time line,  
 21 and used the bus schedules to do so. Inasmuch as Greg's  
 22 culpability as a conspirator rested on the jury's  
 23 evaluations of the actions of Fain's and Diggs and on the  
 24 credibility and reliability of Williams' testimony, the  
 25 jury's consultation of the bus schedules to bolster the  
 26 prosecution's case was prejudicial to Greg.

Continuation Of "Ground 3"; Page # 11

1 The sworn declaration of juror John Elwood makes clear  
2 that a juror injected his own outside expertise into deliberations.  
3 The comment of a juror that if you do crack cocaine it does not  
4 mean you lose your memory is also misconduct. The relationship  
5 between crack cocaine use and memory loss is not a subject of  
6 commonplace knowledge. Moreover, the juror comment is not  
7 a reasonable interpretation of expert witness psychiatrist  
8 Eugene Schoenfeld trial testimony. (RT 932-935.) The juror  
9 who made the comment regarding cocaine and memory was,  
10 clearly relying on first hand experience, observation, or study.  
11 As such, his comment injected his outside expertise into the  
12 deliberations, which constituted misconduct.

13 Here, the evidence is so very slim against GREG, non-  
14 existent by most standard, that a very minimal amount of  
15 error can have a substantial weight in affecting the verdict.  
16 All that ties GREG to the shooting of Robin Williams is, the  
17 January 6 arrest, and his connection to the delivery of a  
18 purportedly threatening note. Other than his presence earlier  
19 in the day, there is nothing connecting GREG to the events  
20 leading up to Williams' shooting. Absent the varieties of jury  
21 misconduct in this case, no trier of facts could have  
22 found GREG guilty of the crimes charged.

23 As stated herein, the defense counsels explicitly asked  
24 the jury material questions during voir dire which the  
25 jury intentionally failed to respond honestly to; specifically,  
26 the jury concealed their unwillingness to (1) follow the court's

Continuation Of "Ground 3"; Page #12

1 instructions; (2) give the defendants, particularly GREE, the  
 2 presumption of innocence; (3) vote not guilty if the  
 3 prosecution failed to produce evidence of the defendants' guilt  
 4 beyond a reasonable doubt; AND (4) ASCERTAIN the  
 5 "difference between a mere suspicion, a CREATING of a  
 6 suspicion AND CREATING evidence that convinces beyond a  
 7 REASONABLE doubt." (RT 132; 136-137; 140-141; 147. Also,  
 8 see, this Ground AT pages 1 & 2.)

9 The jury's failure to respond honestly to the defense  
 10 counsels' questions during voir dire violated GREE right to a  
 11 fair trial, an impartial jury, due process, confrontation,  
 12 AND A VERDICT BASED ON ADMISSIBLE trial evidence under the  
 13 Fifth, Sixth AND Fourteenth Amendments of the United  
 14 States Constitution; AND was the direct cause of the  
 15 violation set forth in Ground 1.

16 Based on the above, the Court must grant habeas  
 17 relief to GREE on this ground along with any other  
 18 relief the Court deems fair and just.

7. Ground 2 or Ground

4

(if applicable):

"Ground 4"; Page #1

GREG'S RIGHT TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED WHEN COUNSEL FAILED TO: CHALLENGE OVERT ACTS; OBJECT TO FALSE AND UNSUPPORTED MATERIAL STATEMENTS AT TRIAL; AND USE PREEMPTORY CHALLENGE TO EXCUSE A BIAS JUROR.

a. Supporting facts:

TRIAL COUNSEL'S FAILURE TO MAKE AN OBVIOUS CHALLENGE OF OVERT ACTS CONSTITUTES INEFFECTIVE TRIAL REPRESENTATION.

TRIAL COUNSEL FAILED TO CHALLENGE THE VALIDITY AND THE LEGALITY OF THE OVERT ACTS IN HIS MOTION TO DISMISS (CALIF. PENAL CODE SEC. 995 MOTION.). (CT 70, 152; RT 27.) TO SUPPORT A CRIME OF CONSPIRACY, THE PROSECUTION MUST PROVE THE COMMISSION OF AN OVERT ACT BY ONE OR MORE OF THE PARTIES ENGAGED IN THE AGREED UPON CONSPIRACY. IN THIS CASE, ONLY FOUR OVERT ACTS IN SUPPORT OF THE CONSPIRACY WAS RELATED TO GREG. (Nos. 2, 4, 5, AND 6.). OVERT ACT NO. 2 ALLEGED THAT GREG. TOOK A PHOTO AND GAVE IT TO MARLA FAIR; NO. 4 ALLEGED THAT GREG. ACCOMPANIED FAIR TO DELIVER A NOTE; NO. 5 ALLEGED THAT GREG. ENCOURAGED FAIR AND JOSEPH DIGGS TO MURDER ROBIN WILLIAMS; AND NO. 6 ALLEGED THAT GREG. AND FAIR RESIDED AT 126 BLYTHDALE. (CT 1-4.) AS STATED IN "GROUND 1" AND SUPPORTED BY THE RECORD, THERE WAS NO FINDING OF OVERT ACT NO. 6; NO EVIDENCE TO SUPPORT NO. 5; AND NOS. 2 AND 4 FAIL BECAUSE (1) THERE IS NO EVIDENCE OF AN AGREEMENT (SEE CONTINUATION, ADDITIONAL PAGE)

b. Supporting cases, rules, or other authority:

STICKLAND V. WASHINGTON, 466 U.S. 668 (1984); BRECHT V. ABRAHAMSON, 507 U.S. 619 (1993); DONNELLY V. DECHRISTOFORO, 416 U.S. 637 (1974);

Continuation Of "Ground 4"; Page #2

1 between GREG and ANYONE to commit murder and (2) they  
2 do not meet the legal requirement of an overt act.

3 In light of the fact that GREG pled not guilty to the  
4 crimes accused (CT 9-11), any reasonably effective  
5 counsel would have moved to challenge all evidence against  
6 his client in which the prosecution relies upon to obtain a  
7 conviction. It is reasonable to assume that had counsel  
8 challenged the overt acts, the prosecution would have  
9 been forced to produce sufficient evidence to support each  
10 act or run the risk of having one or more acts dismissed.

11 As shown herein, the mentioned overt acts were either not  
12 acts in and of themselves or unsupported or lacked  
13 finding. Therefore, had counsel challenge the overt acts,  
14 it is more than likely that one or more or all of the acts  
15 would have been dismissed which would have further weakened  
16 the prosecution's case or resulted in the entire case against  
17 GREG being dismissed, because, the essence of a conspiracy  
18 lies within the commission of an overt act.

19 Here, the prosecution's case against GREG is non-existent  
20 by most standards, therefore, a minimal of error such as  
21 the failure to challenge the overt acts contributed to and  
22 proximately caused the subjection of GREG to an unfair trial,  
23 a bias jury, prosecutorial misconduct, and a conviction on  
24 less than proof beyond a reasonable doubt. Counsel's failure  
25 to challenge the overt acts in question amount to  
26 defective and ineffective representation.

Continuation Of "Ground 4"; Page # 3

1 Trial counsel's failure to make meritorious objections to  
 2 false and unsupported material statements at trial constitutes  
 3 ineffective trial representation.

4 As stated in "Ground 2" and supported by the record,  
 5 in closing arguments, the prosecutor told the jury that  
 6 Wanda Fain wrote the note "for Gregory Brown," (RT 1349.)  
 7 And "... he (Greg) can get her (Robin Williams) out to  
 8 Jerold Avenue and shoot her and leave her dead through  
 9 the other two (Fain and Joseph Diggs)." (RT 1349.)

10 The prosecutor further repeatedly exhorted the jury to bring  
 11 in a "guilty" verdict, not based on the evidence, but  
 12 "because they did it." (RT 1350.) There was not a  
 13 scintilla of evidence presented at trial that supports  
 14 any of those false material statements. Any reasonably  
 15 effective counsel would have fervently objected to each  
 16 and every one of those improper statements, particularly,  
 17 in light of the fact that closing arguments are limited  
 18 to the issue in the case and the evidence that has been  
 19 presented. Counsel's non-objections to the false and  
 20 unsupported material statements allowed the prosecutor  
 21 to: (1) argue facts that are not supported by the  
 22 evidence in the record; (2) inject his personal beliefs  
 23 and opinions; (3) influence and inflame the jury's  
 24 prejudices against Greg; (4) encourage the jury to  
 25 disregard the court's instruction regarding innocence  
 26 and guilt; and (5) divert the jury's attention from

Continuation Of "Ground 4"; Page #4

1 its duty to decide the case on the merit of the evidence  
 2 presented at trial. Moreover, counsel's non-objections gave  
 3 credence to the prosecutor's baseless opening statements.

4 Had counsel objected to the improper statements,  
 5 the objections would have undoubtedly resulted in the  
 6 judge ordering the jury to disregard the statements which  
 7 would have put the jury on notice that they are not  
 8 allowed to consider the improper statements, and that alone  
 9 could have changed the outcome of the trial. However,  
 10 counsel's failure to object to the false and unsupported  
 11 material statements resulted in and contributed to and  
 12 proximately caused GREG's convictions for the crimes  
 13 accused and subjected him to an unfair trial, a bias jury,  
 14 prosecutorial misconduct, and a conviction on less than  
 15 proof beyond a reasonable doubt. Counsel's non-objections  
 16 to the statements in question amount to defective and  
 17 ineffective representation.

18 Trial counsel's failure to use preemptory challenge to  
 19 excuse a potential bias juror from the jury panel constitutes  
 20 ineffective trial representation.

21 Here, during voir dire, juror John Elwood was  
 22 questioned and answered as follows:

23 Mr. Fuetsch (co-defendant Wanda Fain's defense counsel):

24 "Does anyone have a problem or would they have  
 25 a problem with following the instructions of the Court even  
 26 if the result that would be reached by following the

Continuation Of "Ground 4"; Page #5

1 INSTRUCTIONS OF THE COURT WERE CONTRARY TO YOUR GUT  
2 RETENTION IN A CASE AS SERIOUS AS THE THAT'S CHARGED HERE?"

3 PROSPECTIVE JUROR: "I THINK I WOULD HAVE A PROBLEM  
4 WITH IT."

5 MR. FUETSCH: "... COULD YOU EXPLAIN WHAT YOU MEAN  
6 BY YOU WOULD HAVE A PROBLEM WITH THAT?"

7 PROSPECTIVE JUROR: "I BELIEVE THERE'S A HIGHER  
8 AUTHORITY THAN LEGAL AUTHORITY THAT IS LIKE MORAL AUTHORITY,  
9 AND TO FOLLOW LIKE A SET OF RULES RATHER THAN MORE OF A  
10 MORAL THING, I THINK I WOULD BE HARDSSESSED TO FOLLOW THE  
11 SET OF RULES THAT ARE OUTLINED BY LAW."

12 "... BUT I THINK IF YOU MISCONSTRUCT THE CONSTITUTION  
13 OR BROADEN ITS ACTUAL AUTHORITY, THEN I THINK THAT  
14 COULD BE POTENTIALLY WRONG."

15 (RT 132-133.)

16 MR. ARIAN (GREG'S TRIAL COUNSEL):

17 "MR. ELWOOD, I HEARD YOU SAY SOMETHING ABOUT  
18 BROADENING THE AUTHORITY OF THE CONSTITUTION. DO YOU RECALL  
19 THAT COMMENT?"

20 PROSPECTIVE JUROR: "I DO."

21 MR. ARIAN: "I WONDER IF YOU COULD SAY ANY MORE  
22 ABOUT THAT. I DIDN'T GET YOUR COMPLETE THOUGHT."

23 PROSPECTIVE JUROR: "MY THOUGHT IS A LOT OF, LET'S  
24 SAY, SOMEBODY'S ON TRIAL, THE JURORS SIT THROUGH THE  
25 ENTIRE TRIAL, THEY HAVE A GUT FEELING THAT THESE DEFENDANTS  
26 ARE, LET'S SAY, GUILTY, BUT A LOT OF CIRCUMSTANTIAL

Continuation Of "Ground 4"; Page #6

1 EVIDENCE HAS BEEN BROUGHT IN AND IT'S BEEN FOUND -- OR A  
2 LEGAL ISSUE HAS BEEN BROUGHT UP, A MINOR LEGAL ISSUE THAT  
3 SPEAKS TO THEIR INNOCENCE. YOU'RE SUPPOSED TO THINK  
4 THEY'RE INNOCENT EVEN THOUGH THEY'RE GUILTY, BECAUSE IT'S  
5 A LEGAL ARGUMENT AND IT TAKES PRECEDENCE OVER HOW YOU FEEL."

6 MR. ARIAN: "YOU'RE SAYING THAT AS A JUROR YOUR GUT  
7 REACTION IS VERY IMPORTANT AND YOU'RE GOING TO PAY A LOT  
8 OF ATTENTION TO THAT?"

9 PROSPECTIVE JUROR: "IF YOU'VE LISTENED TO ALL THE  
10 FACTS AND YOU SAY, YES, THEY ARE INNOCENT OR GUILTY, BUT  
11 SOME LEGAL PRECEDENCE MAKES YOU DISMISS THAT, THEN I  
12 HAVE A BIG PROBLEM WITH THAT."

13 MR. ARIAN: "YOU MIGHT NOT BE ABLE TO DO THAT?"

14 PROSPECTIVE JUROR: "NO, I WOULD NOT."

15 MR. ARIAN: "WOULD THAT HOLD IF THE JUDGE AT THE  
16 CLOSE OF THE CASE INSTRUCTED YOU THAT YOU WERE TO CONSIDER  
17 THIS EVIDENCE IN A CERTAIN WAY AND THE INSTRUCTIONS OF THE  
18 JUDGE WENT COUNTER TO THE FEELINGS YOU JUST DESCRIBED."

19 PROSPECTIVE JUROR: "I REALLY DON'T KNOW SITTING  
20 HERE RIGHT NOW."

21 MR. ARIAN: "WOULD YOU HAVE TROUBLE WITH IT?"

22 PROSPECTIVE JUROR: "I WOULD HAVE MAJOR PROBLEMS."

23 (RT 142-143.)

24 THE COURT: "AT THIS POINT DOES ANY PARTY WISH  
25 TO ENTER A CHALLENGE FOR CAUSE?"

26 1111

Continuation Of "Ground 4"; Page # 7

1 But before you do that, Mr. Elwood, I was little  
2 unclear about your statements.

3 Let me just read this question to you again:  
4 It [sic] important that I have your assurance that you  
5 will without reservation follow my instructions and  
6 rulings on the law and will apply that law to the case.  
7 To put it differently, whether you approve or disapprove  
8 of my instructions, it is your solemn duty to accept as  
9 correct my statements of the law. You may not  
10 substitute your own idea of what you think the law  
11 ought to be.

12 Would you be able to follow the law as given  
13 by me in this case?"

14 Prospective Juror: "I would, but I may have a  
15 problem with that, internal conflict."

16 (RT 158-159.)

17 As demonstrated, juror Elwood's responses during  
18 voir dire were evasive and misleading and concealed his  
19 unwillingness to follow the court's instructions. Any  
20 reasonably effective counsel would have used a preemptory  
21 challenge to excuse juror Elwood from the jury panel as a  
22 result of his explicit or implicit allegiance to his "gut"  
23 feelings opposed to the law and instructions given by  
24 the court. Moreover, Elwood's declaration illustrates  
25 an abundance of juror misconduct (CT 451-452),  
26 therefore, it is reasonable to assume that Elwood's

Continuation Of "Ground 4"; Page #8

1 RELIANCE ON his gut feelings during deliberations, rather  
2 than the Court's instructions, was influential in the jury's  
3 decision to find GREG guilty of the crimes charged,  
4 particularly since the verdicts were contrary to law.

5 COUNSEL'S failure to excuse potential bias Elwood from  
6 the jury panel contributed to and proximately caused  
7 GREG's deprivation of a fair trial and impartial jury.

8 GREG'S right to effective assistance of trial counsel  
9 as guaranteed by the Fifth, Sixth and Fourteenth  
10 Amendments of the United States Constitution was violated  
11 when counsel failed to (1) challenge the overt acts;  
12 (2) object to false and unsupported material statements  
13 at trial; and (3) use preemptory challenge to  
14 excuse the bias juror John Elwood from the jury panel.

15 (Attachment No. 1 affixed hereto is exact copies  
16 of the court and the reporter's transcripts  
17 referred to in this ground.)

18 Based on the above, the Court must grant  
19 habeas relief to GREG on this ground along with  
20 any other relief the Court deems fair and just.

Ground 2 or Ground 5 (if applicable): "Ground 5"; Page #1

GREG'S RIGHT TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, AS GUARANTEED UNDER THE FIFTH, SIXTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WAS VIOLATED WHEN COUNSEL DELIBERATELY FAILED TO DISCOVER AND INCLUDE NON-FRIVOLOUS ISSUES INTO THE APPELLANT'S BRIEF.

a. Supporting facts:

IT WAS DEFECTIVE AND INEFFECTIVE REPRESENTATION OF APPELLATE COUNSEL WHEN COUNSEL FAILED TO RAISE ON APPEAL THE FOLLOWING NON-FRIVOLOUS ISSUES: (1) GREG'S CONVICTIONS ARE BASED ON LESS THAN PROOF BEYOND A REASONABLE DOUBT OF EVERY ELEMENT OF THE CHARGED CRIMES AS FULLY SET FORTH HEREIN AT GROUND ONE; (2) THE PROSECUTOR COMMITTED SEVERAL INSTANCES OF PROSECUTORIAL MISCONDUCT AS FULLY SET FORTH HEREIN AT GROUND TWO; (3) THE JURY FAILED TO RESPOND HONESTLY TO THE DEFENSE COUNSEL'S QUESTIONS DURING VOIR DIRE AS FULLY SET FORTH HEREIN AT GROUND THREE; AND (4) TRIAL COUNSEL WAS INEFFECTIVE WHEN HE FAILED TO CHALLENGE THE OVERT ACTS IN SUPPORT OF THE CONSPIRACY CHARGE; FAILED TO OBJECT TO THE FALSE AND UNSUPPORTED AND DECEITFUL MATERIAL STATEMENTS PRESENTED AT TRIAL BY THE PROSECUTOR; AND FAILED TO USE PREEMPTORY CHALLENGE TO EXCUSE JUROR JOHN EDWOOD, AS FULLY SET FORTH HEREIN AT GROUND FOUR. NONE OF THESE ISSUES ARE FRIVOLOUS.

(SEE CONTINUATION, ADDITIONAL PAGE)

Supporting cases, rules, or other authority:

SMITH V. ROBBINS, 538 U.S. 259 (2000); BRECHT V. ABRAMSON, 507 U.S. 619 (1993); DONNELLY V. DECHRISTOFORO, 416 U.S. 637 (1974)

Continuation of "Ground 5"; Page #2

1 Any reasonably effective appellate counsel would have  
2 raised each of the mentioned issues on direct appeal  
3 to acquire the reversal of the lower court's judgment.

4 Appellate counsel raised the following claims on  
5 appeal: insufficient evidence to prove conspiracy to  
6 commit murder; insufficient evidence to prove  
7 attempted murder; jury misconduct; remand for  
8 resentencing under People V. Superior Court; and  
9 joinder in co-defendants' arguments. Had  
10 counsel incorporated the mentioned non-frivolous  
11 issues into the appellate brief, the issues would have  
12 provided evidentiary support for the claims raised  
13 therein and contributed to the perseverance of a  
14 successful appeal. However, appellate counsel's  
15 failure to raise the issues in question deprived GREG  
16 of a prosperous and triumphant appeal and the  
17 right to effective representation of counsel on appeal  
18 in violation of his Fifth, Sixth and Fourteenth  
19 Amendments of the United States Constitution.

20 Based on the above, the Court must grant habeas  
21 relief to GREG on this ground and any other relief  
22 the Court deems fair and just.  
23  
24  
25  
26

8. Did you appeal from the conviction, sentence, or commitment? ☒ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

Court of Appeal of the State of Calif., First Appellate District, Division Four

b. Result Affirmed

c. Date of decision: JANUARY 28, 1998

d. Case number or citation of opinion, if known: No. A072126

e. Issues raised: (1) INSUFFICIENT EVIDENCE TO PROVE CONSPIRACY TO COMMIT MURDER;

(2) INSUFFICIENT EVIDENCE TO PROVE ATTEMPTED MURDER; (3) JURY MISCONDUCT; (4) REMAND FOR RESENTENCING UNDER PEOPLE V. SUPERIOR COURT; AND (5) JOINER IN CO-DEFENDANT ARGUMENTS.

f. Were you represented by counsel on appeal? ☒ Yes. ☐ No. If yes, state the attorney's name and address, if known:

VICTOR BLUMENKRANTZ; P.O. Box 9586; Berkeley, CA 94709

9. Did you seek review in the California Supreme Court? ☒ Yes ☐ No. If yes, give the following information:

a. Result DENIED

b. Date of decision: April 29, 1998

c. Case number or citation of opinion, if known: S068320

d. Issues raised: (1) SAME AS ABOVE

(2) \_\_\_\_\_

(3) \_\_\_\_\_

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

THE ISSUES RAISED HEREIN ARE BASED ON MATTERS OUTSIDE THE RECORD ON APPEAL.

TRIAL AND APPELLATE COUNSEL WERE INEFFECTIVE IN FAILING TO RAISE THESE ISSUES.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

N/A

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. a. (1) Name of court: SUPERIOR COURT OF SAN FRANCISCO

(2) Nature of proceeding (for example, "habeas corpus petition"): HABEAS CORPUS PETITION

(3) Issues raised: (a) (SEE: ATTACHMENT NO. 2 AFFIXED HERETO.)

(b) \_\_\_\_\_

(4) Result (Attach order or explain why unavailable): DENIED; SEE ATTACHMENT NO. 3

(5) Date of decision: MAY 30, 2007

b. (1) Name of court: COURT OF APPEAL OF THE STATE OF CALIFORNIA

(2) Nature of proceeding: HABEAS CORPUS PETITION

(3) Issues raised: (a) (SEE: ATTACHMENT NO. 2 AFFIXED HERETO.)

(b) \_\_\_\_\_

(4) Result (Attach order or explain why unavailable): DENIED; SEE ATTACHMENT NO. 4

(5) Date of decision: JULY 5, 2007

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

(SEE: ATTACHMENT NO. 2 AFFIXED HERETO.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

THE PETITION WAS DENIED BY THE SUPERIOR COURT OF SAN FRANCISCO AND BY THE COURT OF APPEAL OF THE STATE OF CALIFORNIA.

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true. UNDER PENALTY OF PERJURY I ALSO DECLARE THAT THE ATTACHMENTS ARE WHAT I DECLARE THEM TO BE.

Date: 8/1/07

Gregory L. Brown  
(SIGNATURE OF PETITIONER)

Declaration of Service

CASE NAME : BROWN V. LARSEN, STATE-CORCORAN PRISON

CASE NO. : \_\_\_\_\_

I declare :

On August 1, 2007, I served the attached  
Writ of Habeas Corpus

by placing a true copy thereof enclosed in a sealed  
envelope with postage thereon fully prepaid, in the  
prison mail collection system at STATE-CORCORAN  
Prison, in California, addressed as follows :

California Supreme Court  
350 McAllister St.  
San Francisco, CA 94102

I declare under penalty of perjury that  
the foregoing is true and correct.

Dated: 8/1/07

Gregory J. Brown  
GREGORY J. BROWN



1  
2  
3 GREGORY L. BRAUN, the Appellant, declares  
4 UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE  
5 AND CORRECT.  
6

7 Date: 8/1/07

8 Respectfully submitted,  
9 Gregory L. Braun  
10 GREGORY L. BRAUN,  
11 Appellant  
12  
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ATTACHMENT 1

001  
**FILED**  
San Francisco County Superior Court

MAR 17 1995

ALAN CARLSON, Clerk  
*Alan G. Carlson*  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA,	)	NO. 159271
	)	
	)	
Plaintiff,	)	
vs.	)	<b>F. ANDREWS</b>
	)	
GREGORY BROWN, WANDA FAIN	)	
and JOSEPH DIGGS,	)	<u><b>INFORMATION</b></u>
	)	
	)	
Defendants	)	

COUNT I:

GREGORY BROWN, WANDA FAIN and JOSEPH DIGGS

are accused by the District Attorney of the City and County of San Francisco, State of California, by this Information, of the crime of felony, to wit: VIOLATION OF SECTION 182.1 OF THE CALIFORNIA PENAL CODE committed as follows: The said defendants on or about the 7th day of January, 1995 to the 7th day of February, 1995, both dates inclusive, at the City and County of San Francisco, State of California, did wilfully and unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of MURDER, in violation of Section 187 of the Penal Code, a felony; that pursuant to and for the purpose of carrying out the objects and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the County of San Francisco:

OVERT ACTS

OVERT ACT NUMBER 1

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did write a note containing threats against Robin Williams.

People v. Gregory Brown, et al.

SC 159271

Page 2

OVERT ACT NUMBER 2

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did put the note in an envelope with a photograph of Robin Williams which was taken by defendant Gregory Brown and which was given to Fain by defendant Gregory Brown.

OVERT ACT NUMBER 3

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did deliver the threatening note and photograph to Robin Williams.

OVERT ACT NUMBER 4

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Gregory Brown did accompany defendant Wanda Fain to deliver the threatening note to Robin Williams.

OVERT ACT NUMBER 5

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Gregory Brown did encourage defendants Wanda Fain and Joseph Diggs to murder Robin Williams.

OVERT ACT NUMBER 6

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Gregory Brown, Wanda Fain and Joseph Diggs did reside at the same address of 126 Blythdale Street in San Francisco.

OVERT ACT NUMBER 7

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendant Wanda Fain did provide cocaine base, also called "crack" cocaine, to Robin Williams.

People v. Gregory Brown, et al.

SC 159271

Page 3

OVERT ACT NUMBER 8

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendant Wanda Fain did encourage Robin Williams to go to Jerrold Street with defendants Wanda Fain and Joseph Diggs.

OVERT ACT NUMBER 9

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did get on the Number 15 bus with Robin Williams.

OVERT ACT NUMBER 10

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did exit the bus with Robin Williams at 3rd and McKinnon Streets in San Francisco.

OVERT ACT NUMBER 11

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did take Robin Williams with them to Jerrold Street with the intention of murdering Robin Williams.

OVERT ACT NUMBER 12

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did walk on Jerrold Street approaching Quint Street with Robin Williams.

OVERT ACT NUMBER 13

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that while walking with Robin Williams defendants Wanda Fain and Joseph Diggs did shoot Robin Williams in the back of the head with a 9mm semi-automatic pistol.

People v. Gregory Brown, et al.

SC 159271

Page 4

OVERT ACT NUMBER 14

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did shoot at Robin Williams again while she was lying on the ground.

USE OF FIREARM ALLEGATION PURSUANT TO PENAL CODE SECTION 12022.5(a)  
[As to defendant JOSEPH DIGGS only]:

It is further alleged that in the commission and attempted commission of the above offense, the said defendant, JOSEPH DIGGS, personally used a firearm, to wit, a 9 mm semi-automatic pistol, within the meaning of Penal Code Section 12022.5(a) and also causing the above offense to be a serious felony within the meaning of Penal Code Section 1192.7(c)(8).

ARMED WITH A FIREARM ALLEGATION PURSUANT TO PENAL CODE SECTION  
12022(a)(1) [As to defendants GREGORY BROWN and WANDA FAIN only]:

It is further alleged that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm, to wit, a 9 mm semi-automatic pistol, said arming not being an element of the above offense, within the meaning of Penal Code Section 12022(a)(1).

ALLEGATION OF FELONY COMMITTED WHILE ON BAIL AND ON OWN RECOGNIZANCE  
PURSUANT TO PENAL CODE SECTION 12022.1 [As to defendant GREGORY BROWN  
only]:

It is further alleged that the defendant, GREGORY BROWN, committed the above offense while he was released from custody in a felony offense, on bail and on his own recognizance, within the meaning of Penal Code Section 12022.1.

COUNT II:

The said defendants GREGORY BROWN, WANDA FAIN AND JOSEPH DIGGS, are further accused by the District Attorney of the City and County of San Francisco, State of California, by this Information, of the crime of felony, to wit: VIOLATION OF SECTION 664/187 OF THE CALIFORNIA PENAL CODE committed as follows: The said defendant on or about the 7th day of February, 1995, at the City and County of San Francisco, State of California, did wilfully, unlawfully, and with malice aforethought attempt to murder ROBIN WILLIAMS, a human being.

## SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO - MINUTES

009

People of the State of California vs. GREGORY L. BROWN

☒ Present

SC #

Assistant DA of Record

Attorney of Record

159271-01

☐ Present

S. ARIAN

☒ Present

Clerk

Judge

JOSIE C. ROQUE

DAVID A. GARCIA

Reporter

JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Defendant has retained ARIAN/S, Esq.

Count	Code	Section	Degree	MC #	Plea
1	PC	182.1/F		01563370	NG
2	PC	664.187/F		01563370	NG

Defendant waives formal reading of the Information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

## SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO - MINUTES

019

People of the State of California vs. WANDA LOUISE FAIN

☒ Present

SC #

159271-02

Assistant DA of Record

☐ Present

Attorney of Record

F. FUETSCH

☒ Present

Clerk

JOSIE C. ROQUE

Judge

DAVID A. GARCIA

Reporter

JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Court has appointed FUETSCH/F, Public Defender.

Count	Code	Section	Degree	MC #	Plea
2	PC	664.187/F	1	01559424	NG
3	PC	245(A).2/F		01559424	NG
1	PC	182.1/F		01559424	NG

Defendant waives formal reading of the Information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

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SUPERIOR CO

IN THE CITY AND COUNTY OF SAN FRANCISCO

CISCO - MINUTES

C11

People of the State of California vs. JOSEPH DIGGS

☒ Present

SC #

159271-03

Assistant DA of Record

F. ANDREWS

☐ Present

Attorney of Record

MARC SILVERSMIT

☒ Present

Clerk

JOSIE C. ROQUE

Judge

DAVID A. GARCIA

Reporter

JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Court has appointed SILVERSMIT/MARC, conflict counsel.

Count	Code	Section	Degree	MC #	Plea
2	PC	664.187/F	1	01559442	NG
3	PC	245(A).2/F		01559442	NG
4	PC	12021A1/F		01559442	NG
1	PC	182.1/F		01559442	NG

Defendant waives formal reading of the Information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

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**FILED** 070  
San Francisco County Superior Court

MAR 24 1995

ALAN CARLSON, Clerk  
BY: [Signature] Deputy Clerk

STEPHEN ARIAN, Attorney at Law  
State Bar No. 38939  
Pier 33 South, #200  
San Francisco, CA 94111  
(415) 434-1550  
Attorney for Defendant GREGORY L. BROWN

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA,	)	No. 159271-0/
	)	
Plaintiff,	)	NOTICE OF MOTION FOR
	)	DISMISSAL OF COUNTS I
vs.	)	AND II OF THE INFORM-
	)	ATION UNDER SECTION 995
GREGORY L. BROWN,	)	OF THE PENAL CODE
WANDA FAIN, and JOSEPH DIGGS,	)	
	)	Date: April 7, 1995
Defendants.	)	Time: 9:00 A.M.
	)	Dept: 23

To the District Attorney of the City and County of San Francisco and to FLOYD ANDREWS, Deputy District Attorney:

PLEASE TAKE NOTICE that on the 7 day of April 1995, at 9:00 A.M. or as soon thereafter as the matter may be heard in Department 23 of the above entitled court, defendant GREGORY L. BROWN, through counsel will move the court for dismissal of Count I and II of the indictment herein as it relates to said defendant GREGORY L. BROWN, and to strike the enhancement allegations as they relate to said GREGORY L. BROWN, all under Section 995 of the California State Penal Code.

This motion is made on the grounds that there is no competent evidence to show probable cause to hold defendant

4-24-95  
4-7-95  
0-23  
AR  
9:00

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA VS.

ACTION NO. 159271

F. Andrews  
ASSISTANT D.A. PRESENT

GREGORY L. BROWN -1  
DEFENDANT PRESENT

S. Arian  
DEFENSE COUNSEL PRESENT

WANDA LOUISE FAIN -2  
DEFENDANT PRESENT

F. Fuetsch PD  
DEFENSE COUNSEL PRESENT

JOSEPH DIGGS -3  
DEFENDANT PRESENT

M. Silversmit  
DEFENSE COUNSEL PRESENT

=====

CAUSE ON CALENDAR Mo. 995 PC (all); Mo. handwriting exemplar (Diggs)  
Mo. discovery (Diggs); Motion for joinder in motions (Fain, Brown)

9:15 A.M.

The Court grants motion for joinder.

The Court grants the motion for discovery in part.

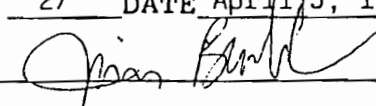
The Court grants the motion for handwriting exemplar.

9:30 A.M. The Court orders the matter continued to 1:30 P.M. for  
hearing on 995 PC motion.

2:50 P.M.

Hearing resumes. The Court grants the 995 PC motion as to defendant BROWN  
(Great Bodily Injury Allegation only). The 995 PC motion is denied in all  
other respects.

Defendants are given standing to participate in the 1538.5 PC hearing in case  
#159194 (Gregory Brown) Copy of proceedings had in that matter are attached  
and incorporated herein by reference.

DEPT. 27 DATE April 15, 1995 PAGE \_\_\_\_\_ATTEST:  DEPUTY CLERK

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MARC J. ZILVERSMIT, ESQ.  
RIORDAN & ROSENTHAL  
Attorney At Law  
523 Octavia Street  
San Francisco, CA 94102  
Telephone: (415) 431-3472

Attorney for Defendant JOSEPH DIGGS

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF CALIFORNIA	)	No. 159271
	)	
Plaintiff,	)	
	)	DECLARATION OF
vs.	)	<u>JUROR JOHN ELWOOD</u>
	)	
JOSEPH DIGGS,	)	
	)	
Defendant.	)	

I, John Elwood, declare under penalty of perjury that:

I was a juror in the case of People v. Joseph Diggs, Wanda Fain, and Gregory Brown, No. 159271.

During our deliberations we prepared a time line from January 6 to February 10 and made a time line for the evening of the incident. We were particularly concerned with the period between 7:30 pm and 8:35 pm on the night of the shooting. To help reconstruct what happened during that period, we consulted bus schedules that Jurors Alvin Bernstein and Monell Beurmann brought in on the second day of deliberations. These schedules provided us information about the intervals between buses and the frequency with which buses came; this information <sup>coming along with testimony</sup> helped us fill <sup>stated</sup> in our time line from 7:30 pm until 8:35 pm on the night of the shooting

Declaration of John Elwood  
Page 1

"A"

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We also discussed a number of other things in our deliberations. We discussed the inconsistencies between defendant Wanda Fain's statement and defendant Joseph Diggs' statement. We discussed how these inconsistencies demonstrated that at least one of them was lying.

There was also discussion about access to guns which was in reference to defendant Greg Brown's prior arrest.

There were also discussions about defendant Greg Brown being a drug dealer and his propensity for violence and drugs and that kind of lifestyle. This was mostly in reference to defendant Brown's state of mind. Some jurors discussed that as a drug dealer, Brown's state of mind may be twisted and power hungry. Some jurors also discussed that as a drug dealer, Brown might feel that there would be no consequences to his actions if he killed Robin Williams. *The jurors who brought up discussions of def. Brown's lifestyle were reminded by other jurors that this line of deliberation was speculation & could be dangerous*

Someone also made reference to the fact that if you do crack cocaine, it does not mean you lose your memory. *discuss in deliberation*

Some jurors also discussed defendant Joseph Diggs' medical condition, specifically his tremor. Juror Jordan Owens stated that this might explain how Diggs could have shot at Robin Williams and missed. *SPK*

Executed this 5 day of JULY, 1995 in San Francisco, California.

*John Elwood*  
JOHN ELWOOD  
Declarant

Declaration of John Elwood  
Page 2

"A"

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1 record that Mr. Brown personally did it?

2 MR. ANDREWS: I don't believe that with the conspiracy  
3 count I have to prove personal great bodily injury.

4 THE COURT: Well, you read it. It says:

5 "It is further alleged in the commission of  
6 the above offense said defendant, with the  
7 intent to inflict such injury, personally  
8 inflicted great bodily injury on Robin Williams."

If you look at page 6 of the Information.

MR. ANDREWS: If it's plead that way, it is incorrect.

The matter is submitted.

THE COURT: All right. Is the matter submitted?

3 MR. ARIAN: Submitted, your Honor.

4 THE COURT: All right. The Court will grant the 995  
5 Motion as to the great bodily injury allegation as to Mr.  
6 Brown. The other counts, the 995 motion is denied.

17 Let's go to the motion to suppress now.

18 All right. We will get started with it now. All right.  
19 Call your first witness.

20 MR. ANDREWS: Thank you, your Honor.

21 I will call Officer Walsh to the stand.

22 I will ask that Officer Jefferson be designated as my  
23 investigating officer.

24 THE COURT: All right.

25 MR. ARIAN: Your Honor, may I ask for an order excluding  
26 all witnesses?

27 THE COURT: Yes. All witnesses will be ordered excluded  
28 from the courtroom. You are not to discuss the testimony

1 instructions as it relates to how you are to conduct  
2 yourself. The process is as important as the product.

3 Does anyone have a problem or would they  
4 have a problem with following the instructions of the  
5 Court even if the result that would be reached by  
6 following the instructions of the Court were contrary to  
7 your gut reaction in a case as serious as the one that's  
8 charged here?

9 PROSPECTIVE JUROR: I think I would have a  
10 problem with it.

11 MR. FUETSCH: Do you feel as though --  
12 well, actually could you explain what you mean by you  
13 would have a problem with that?

14 PROSPECTIVE JUROR: I believe there's a  
15 higher authority than legal authority that is like moral  
16 authority, and to follow like a set of rules rather than  
17 more of a moral thing, I think I would be hardpressed to  
18 follow the set of rules that are outlined by law.

19 MR. FUETSCH: Let me ask you a pointed  
20 question. If, for example, and I'm not saying it's going  
21 to happen, if, for example, in the middle of the night  
22 the police came to your home and forced their way in and  
23 just searched your house and in your home discovered  
24 bombs, machine guns, bottom making material, whatever  
25 they discovered is illegal. And the prosecution sought  
26 to prosecute you for the crime of possessing that  
27 material or that item. There are laws, of course, that  
28 allow you as an individual through your attorney or

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1 individually to challenge the admissibility of such  
2 evidence, and the basis or reason for the law that allows  
3 you to challenge such evidence is the law of the  
4 constitution. That is, while we may not condone your  
5 conduct in possessing that, we nevertheless must hold the  
6 authorities to a very high standard. In the case I've  
7 described, that evidence wouldn't be admissible against  
8 you to convict you.

9 Do you think that's wrong?

10 PROSPECTIVE JUROR: No. In that particular  
11 case I don't think that's wrong, but I think if you  
12 misconstrue the constitution or broaden its actual  
13 authority, then I think that could be potentially wrong.

14 MR. FUETSCH: But in the illustration I've  
15 given you --

16 PROSPECTIVE JUROR: That's fine, I wouldn't  
17 have any problem with that.

18 MR. FUETSCH: One individual, and I think  
19 actually it was you again, indicated that you had been  
20 attacked some years ago by someone, correct?

21 PROSPECTIVE JUROR: That's correct.

22 MR. FUETSCH: And you suffered a concussion  
23 as a result of that?

24 PROSPECTIVE JUROR: A mild concussion.

25 MR. FUETSCH: Has anybody else here  
26 suffered a severe injury, say in, for example, an  
27 automobile accident or been attacked, anything wherein  
28 they've lost consciousness as a result of that injury.

1 All of us have ways of looking at things that control the  
2 way we lead our lives. We may think of that as a bias,  
3 but it's there. In this rather imperfect process we try  
4 to get at that a little bit, and I'm sure you'll all  
5 agree this is an imperfect process.

6 In that connection, and I don't want  
7 anyone, as Mr. Zilversmit said, to think that any of us  
8 are picking on you. We're really not, but when we hear  
9 things we feel the necessity within the time allotted to  
10 us to explore it.

11 Mr. Elwood, I heard you say something about  
12 broadening the authority of the constitution. Do you  
13 recall that comment?

14 PROSPECTIVE JUROR: I do.

15 MR. ARIAN: I wonder if you could say any  
16 more about that. I didn't get your complete thought.

17 PROSPECTIVE JUROR: My thought is a lot of,  
18 let's say, somebody's on trial, the jurors sit through  
19 the entire trial, they have a gut feeling that these  
20 defendants are, let's say, guilty, but a lot of  
21 circumstantial evidence has been brought in and it's been  
22 found -- or a legal issue has been brought up, a minor  
23 legal issue that speaks to their innocence. You're  
24 supposed to think they're innocent even though they're  
25 guilty, because it's a legal argument and it takes  
26 precedence over how you feel. You're suppose to follow  
27 that rather than how you feel, and you're supposed to  
28 say, yes, in fact, they're innocent when you feel they're

198 191

9 1 guilty.

2 MR. ARIAN: As I hear what you're telling  
3 me, and please correct me, you're saying that as a juror  
4 your gut reaction is very important and you're going to  
5 pay a lot of attention to that?

6 PROSPECTIVE JUROR: No, you pay attention  
7 to the facts, but I'm saying that the facts don't  
8 necessarily jibe with, let's say, some legal arguments  
9 that take precedence over the facts. If you've listened  
10 to all the facts and you say, yes, they are innocent or  
11 guilty, but some legal precedence makes you dismiss that,  
12 then I have a big problem with that.

13 MR. ARIAN: You might not be able to do  
14 that?

15 PROSPECTIVE JUROR: No, I would not.

16 MR. ARIAN: Would that hold if the judge at  
17 the close of the case instructed you that you were to  
18 consider this evidence in a certain way and the  
19 instructions of the judge went counter to the feelings  
20 you just described, would you be forced to go with your  
21 feelings or the higher moral law you found, or would you  
22 feel compelled to follow the instructions of the Court  
23 with respect to that specific issue that was presented?

24 PROSPECTIVE JUROR: I really don't know  
25 sitting here right now.

26 MR. ARIAN: Would you have trouble with it?

27 PROSPECTIVE JUROR: I would have major  
28 problems.

MR. ANDREWS: Was that a trial here on the third floor of the building?

PROSPECTIVE JUROR: Uh-huh.

MR. ANDREWS: Was that by any chance in front of the same judge?

PROSPECTIVE JUROR: No, it was not.

MR. ANDREWS: Was there a feeling on your part that it was as a result of a lack -- something lacking on the part of the police department?

PROSPECTIVE JUROR: No.

MR. ANDREWS: How about the District Attorney?

PROSPECTIVE JUROR: No.

MR. ANDREWS: When you say there was not enough evidence, was there an identification issue.

MR. ZILVERSMIT: I'll object. He's seeking to find out how this juror voted on that.

MR. ANDREWS: I didn't ask that.

THE COURT: Sustained.

MR. ANDREWS: Did you -- you don't have any problem with serving as a juror today on a similar kind of case?

PROSPECTIVE JUROR: No.

MR. ANDREWS: Thank you, Your Honor, I have nothing further.

THE COURT: At this point does any party wish to enter a challenge for cause?

But before you do that, Mr. Elwood, I was

1 little unclear about your statements.

2 Let me just read this question to you  
3 again: It important that I have your assurance that you  
4 will without reservation follow my instructions and  
5 rulings on the law and will apply that law to the case.  
6 To put it differently, whether you approve or disapprove  
7 of my instructions, it is your solemn duty to accept as  
8 correct my statements of the law. You may not substitute  
9 your own idea of what you think the law ought to be.

10 Would you be able to follow the law as  
11 given by me in this case?

12 PROSPECTIVE JUROR: I would, but I may have  
13 a problem with that, internal conflict.

14 THE COURT: I understand that. Okay.

15 Any party wish to exercise a challenge for  
16 cause? Please approach sidebar with the court reporter.

17 [Following bench conference not reported:]

18 MR. ZILVERSMIT: I have three challenges  
19 for cause, Judge. Wiley, Elwood and Lee.

20 Taking those, Mr. Lee because he obviously  
21 doesn't comprehend sufficient language to participate as  
22 a juror.

23 MR. ANDREWS: Are we doing --

24 THE COURT: Cause.

25 MR. ANDREWS: -- the whole 24 or just  
26 people in the box?

27 THE COURT: All 24.

28 MR. ZILVERSMIT: So Mr. Lee because of

~~194~~ 194

5           1           The defense talk about, and it's all smoke  
2           2           and mirrors, he talks about all these other people who  
3           3           could want to kill her; it's the 240 pound guy, the 190  
4           4           pound guy, all these people.

5           5           And yet how does this work? How do you we  
6           6           get those people on Jerrold Avenue to shoot her in the  
7           7           head? It does not happen. How else do you figure it?

6           8           Robin is wandering down the street and --  
9           9           finish the sentence somehow. You can't. The only thing  
10          10          that works, the only thing that fits the physical  
11          11          evidence, the testimony of the witnesses, the taped  
12          12          statements, testimony from the experts, the only thing  
13          13          that works is that she's on Jerrold Avenue because she's  
14          14          following Joseph Diggs and Wanda Fain.

15          15          The only theory that fits about the note,  
16          16          Wanda is not writing this because she's mad, she's  
17          17          writing this for Gregory Brown. They're all in the same  
18          18          house. Gregory has got a problem, he's got a court case  
19          19          coming up. But he knows how to deal with this problem.  
20          20          Because he's got a gullible little girl, and he can get  
21          21          her out to Jerrold Avenue and shoot her and leave her for  
22          22          dead through the other two, and that's it. That would be  
23          23          easier. That will be clean. If they had done the wrong  
24          24          right and killed her, you wouldn't be here today because  
25          25          we wouldn't have any clue.

26          26          And that's all I have to say. I want you  
27          27          to look carefully at what you've heard, what you saw. If  
28          28          somebody said something on that stand, just because we're

1350

6 1 in court, we're in a formal setting, everybody says  
2 "please" and "thank you," does not mean you should  
3 believe anything you hear here that you wouldn't believe  
4 outside those doors?

5 Use your common sense. You certainly  
6 shouldn't believe anything you've heard here unless it  
7 fits the evidence you've heard.

8 Based on that I'm asking you to find the  
9 defendants guilty of attempted murder of Robin Williams.  
10 Because they did it.

11 Conspiracy to commit murder.

12 Assault with a deadly weapon.

13 Possession of a firearm by an ex-felon.

14 Because they did it, for no other reason.  
15 They did it, and that's why you're here today.

16 Thank you, Your Honor.

17 THE COURT: Thank you, Mr. Andrews.

18 At this point, ladies and gentlemen, it's  
19 quarter to 5. I have about ten minutes worth of  
20 instructions to read you, the concluding instructions,  
21 then I want to go over the verdict forms with you which  
22 is going to take some time.

23 Rather than do that today we're going to  
24 reconvene tomorrow at 10. I will then finish the  
25 instructions, go over the jury forms, and we'll be  
26 finished.

27 I know one of you has a problem tomorrow,  
28 and hopefully you can change the appointment either later

~~196~~ 196

ATTACHMENT 2

~~194~~ 194

Response to Question #13a of this petition:

- (3) ISSUES RAISED: 1.) GREG'S CONVICTION WAS BASED ON less than proof beyond a REASONABLE doubt of EVERY element of the charged crime; 2.) Prosecutorial misconduct: the prosecutor introduced false and UNSUPPORT AND DECEITFUL material statements at trial; 3.) Jury misconduct: juror GAVE INTENTIONAL false ANSWERS during VOIR DIRE; 4.) INEFFECTIVE ASSISTANCE of trial counsel; AND 5.) INEFFECTIVE ASSISTANCE of Appellate counsel.

Response to Question #15 of this petition:

"Explain any delay in the discovery of the claimed grounds for relief AND in RAISING the claims in this petition." INEFFECTIVE ASSISTANCE of trial AND Appellate counsels. THE ISSUES RAISED HEREIN ARE ON MATTERS OUTSIDE THE RECORD ON APPEAL, AND GREG lacked basic education AND all legal knowledge, UNTIL NOW, to PURSUE the issues HEREIN. MOREOVER, GREG HAS BEEN suffering from major depression AND mental illnesses SINCE AND AS A RESULT of his wrongful convictions AND imprisonment.

ATTACHMENT 3

~~148~~ 199

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE CITY AND COUNTY OF SAN FRANCISCO

Department No. 22

IN THE MATTER OF THE APPLICATION )  
OF )

WRIT NO. 5568

GREGORY L. BROWN )

ORDER

ENDORSED  
FILED

San Francisco County Superior Court

Petitioner, )

MAY 30 2007

FOR A WRIT OF HABEAS CORPUS )

GORDON PARK-LI, Clerk

BY: CARLOS BARRAZA

Deputy Clerk

On April 25, 2007 this Court received a Petition for Writ of Habeas Corpus from petitioner Gregory L. Brown ("Petitioner"). On May 25, 1995, Petitioner was convicted of conspiring to commit murder and of attempted murder. On January 28, 1998, the First District Court of Appeal affirmed the judgment with sentencing modifications. On April 29, 1998, the California Supreme Court denied review. Petitioner is serving 56 years to life at Corcoran State Prison.

Petitioner seeks habeas relief on four grounds. He claims that the verdict was not supported by sufficient evidence and that the prosecutor "maliciously and intentionally introduced false and unsupported and deceitful material statements at trial." He also claims that jurors committed misconduct and that his trial and appellate counsel provided ineffective assistance of counsel.

Petitioner was convicted almost 12 years ago and the Court of Appeal affirmed his conviction over nine years ago. Under well-established California law, a petition should be filed as promptly as the circumstances allow. As a result, the petitioner must explain in detail and "justify any substantial delay in presenting a claim." (*In re Clark* (1993) 5 Cal.4th 750, 765); *In re Swain* (1949) 34 Cal.2d 300, 302.) Where there has been significant delay in seeking habeas relief, the petitioner must describe circumstances sufficient to justify or explain the delay. To avoid the bar of untimeliness, the petitioner has the burden of establishing: (1) the absence of substantial delay; (2) good cause

1 for the delay; or (3) that the claim falls within an exception to  
 2 the bar of untimeliness. (*In re Robbins* (1998) 18 Cal.4th 770,  
 3 781; see also *Clark, supra*, 5 Cal.4th at 775 ["[i]f a petitioner  
 4 had reason to suspect that a basis for habeas corpus relief was  
 available, but did nothing to promptly confirm those suspicions,  
 that failure must be justified"].)

5 As an initial matter, Petitioner's insufficient evidence  
 6 and juror misconduct claims are barred because they were raised  
 - and rejected - on appeal. Because these issues were  
 7 "previously raised and rejected on direct appeal, and because  
 the [P]etitioner does not allege sufficient justification for  
 8 the issues['] renewal on habeas corpus," the issues are  
 "procedurally barred from being raised again." (*Harris, supra*,  
 5 Cal.4th at 825; see also *In re Sakarias* (2005) 35 Cal.4th 140,  
 9 145.)

10 Petitioner's ineffective assistance of trial and appellate  
 11 counsel claims fail for two reasons. First, he has failed to  
 justify the delay in bringing these claims. Instead of alleging  
 12 facts to demonstrate good cause for the delay, Petitioner claims  
 that he "lacked basic education and all legal knowledge, until now"  
 13 and that he was somehow prevented from seeking relief because he  
 has "been suffering from major depression and mental illness."  
 14 These contentions have no merit. Petitioner does not allege when  
 he began suffering "major depression and mental illness," nor does  
 15 he allege how these conditions prevented him from seeking writ  
 relief. Moreover, Petitioner does not explain how his alleged lack  
 16 of "legal knowledge" prevented him from consulting his appellate  
 attorney about a possible claim for ineffective assistance of trial  
 17 counsel, or from contacting an attorney to inquire into the quality  
 of representation provided by his appellate counsel.  
 18

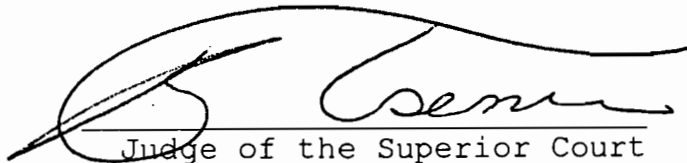
19 Even assuming Petitioner's ineffective assistance of  
 20 counsel claims are not time-barred, these claims fail because  
 Petitioner has not provided any documentation to support his  
 21 claims that his trial and appellate counsel provided ineffective  
 assistance. It is well settled that a petition for writ of  
 habeas corpus should: (1) state fully and with particularity  
 22 the facts upon which relief is sought; and (2) include copies of  
 reasonably available documentary evidence supporting the claim,  
 23 including pertinent portions of trial transcripts and affidavits  
 or declarations. (*People v. Duvall* (1995) 9 Cal.4th 464, 474.)  
 24 Conclusory allegations made without any explanation of their  
 basis do not warrant relief. (*People v. Karis* (1988) 46 Cal.3d  
 25 612, 656; see also *In re Swain* (1949) 34 Cal.2d 300, 303-304.)

Petitioner's failure to attach any supporting documentation to his petition prevents this Court from conducting a meaningful review of his ineffective assistance of counsel claims.

"To establish ineffective assistance of counsel . . . a defendant must show that counsel's representation fell below an objective standard of reasonableness under prevailing professional norms, and that counsel's deficient performance was prejudicial, i.e., that a reasonable probability exists that, but for counsel's failings, the result would have been more favorable to the defendant." (*Strickland v. Washington* (1984) 466 U.S. 668, 687-688; *People v. Waidla* (2000) 22 Cal.4th 690, 718.) Even assuming Petitioner's claims about his attorneys' conduct at trial and during his appeal are accurate, his claims fail because he has not demonstrated that his counsels' performance "fell below an objective standard of reasonableness" and that there is a reasonable probability that, but for counsel's alleged errors, "the result of the proceeding would have been different." (*People v. Ledesma* (1987) 43 Cal.3d 171, 218.) "When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." (*Ledesma, supra*, 43 Cal.3d at 218, citing *Strickland, supra*, 466 U.S. at 693-94].)

For the foregoing reasons, Petitioner's writ of habeas corpus is DENIED.

5/25/07  
Date

  
Judge of the Superior Court

ATTACHMENT : 4

**COPY**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

**FILED**

JUL - 5 2007

Court of Appeal - First App. Dist.  
DIANA HERBERT

by DEPUTY

In re GREGORY L. BROWN,  
on Habeas Corpus.

A118248

(San Francisco County  
Super. Ct. No. 5568)

BY THE COURT:

The petition for writ of habeas corpus is denied. Petitioner has not demonstrated good cause for a delay of over 9 years in seeking habeas relief, nor has he shown his petition should be considered under one of the exceptions to the requirement that habeas relief be timely sought. (See *In re Robbins* (1998) 18 Cal.4th 770, 780-781.) Further, some of the claims asserted in the petition are barred because they were raised and rejected on appeal. (*In re Waltreus* (1965) 62 Cal.2d 218, 225.)

(Ruvolo, P.J., and Rivera, J., joined in the decision.)

JUL - 5 2007

**RUVOLO, P.J.**

Date: \_\_\_\_\_ P.J.

204  
205

Declaration of Service

CASE NAME : Brown V. Warden, SATF-Corcoran Prison

CASE No. : \_\_\_\_\_

I declare :

On August 1, 2007, I served the attached Greg's Supporting Documents For The Petition For Writ Of Habeas Corpus Served On August 1, 2007 by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the prison mail collection system at SATF-Corcoran \_\_\_\_\_, in California, addressed as follows :

California Supreme Court  
350 McAllister St.  
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 8/1/07

Gregory L. Brown  
GREGORY L. BROWN

204  
205

EXHIBIT **F**

~~2008-06-20~~ 206

S155258

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

---

In re GREGORY L. BROWN on Habeas Corpus

---

The petition for writ of habeas corpus is denied. (See *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474; *In re Waltreus* (1965) 62 Cal.2d 218; *In re Lindley* (1947) 29 Cal.2d 709; *In re Dixon* (1953) 41 Cal.2d 756.)

George, C. J., was absent and did not participate.

SUPREME COURT  
FILED

JAN 30 2008

Frederick K. Ohlrich Clerk

Deputy

**BAXTER**

Acting Chief Justice

~~206~~ 207

**EXHIBIT G**

~~207~~ 208

**FILED**  
San Francisco County Superior Court

MAR 17 1995

ALAN CARLSON, Clerk  
X: William G. de Jure  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
CITY AND COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA, ) NO. 159271  
)  
)  
)  
Plaintiff, )  
vs. ) F. ANDREWS  
)  
)  
GREGORY BROWN, WANDA FAIN )  
and JOSEPH DIGGS, ) INFORMATION  
)  
)  
Defendants )

COUNT I:

GREGORY BROWN, WANDA FAIN and JOSEPH DIGGS

are accused by the District Attorney of the City and County of San Francisco, State of California, by this Information, of the crime of felony, to wit: VIOLATION OF SECTION 182.1 OF THE CALIFORNIA PENAL CODE committed as follows: The said defendants on or about the 7th day of January, 1995 to the 7th day of February, 1995, both dates inclusive, at the City and County of San Francisco, State of California, did wilfully and unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of MURDER, in violation of Section 187 of the Penal Code, a felony; that pursuant to and for the purpose of carrying out the objects and purposes of the aforesaid conspiracy, the said defendants committed the following overt act and acts at and in the County of San Francisco:

## OVERT ACTS

OVERT ACT NUMBER 1

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did write a note containing threats against Robin Williams.

~~255~~ 209

People v. Gregory Brown, et al.

SC 159271

Page 2

OVERT ACT NUMBER 2

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did put the note in an envelope with a photograph of Robin Williams which was taken by defendant Gregory Brown and which was given to Fain by defendant Gregory Brown.

OVERT ACT NUMBER 3

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Wanda Fain did deliver the threatening note and photograph to Robin Williams.

OVERT ACT NUMBER 4

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Gregory Brown did accompany defendant Wanda Fain to deliver the threatening note to Robin Williams.

OVERT ACT NUMBER 5

It is alleged in the City and County of San Francisco, on or about the 7th day of January, 1995 to February 7, 1995, defendant Gregory Brown did encourage defendants Wanda Fain and Joseph Diggs to murder Robin Williams.

OVERT ACT NUMBER 6

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Gregory Brown, Wanda Fain and Joseph Diggs did reside at the same address of 126 Blythdale Street in San Francisco.

OVERT ACT NUMBER 7

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendant Wanda Fain did provide cocaine base, also called "crack" cocaine, to Robin Williams.

309 210

603

People v. Gregory Brown, et al.

SC 159271

Page 3

OVERT ACT NUMBER 8

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendant Wanda Fain did encourage Robin Williams to go to Jerrold Street with defendants Wanda Fain and Joseph Diggs.

OVERT ACT NUMBER 9

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did get on the Number 15 bus with Robin Williams.

OVERT ACT NUMBER 10

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did exit the bus with Robin Williams at 3rd and McKinnon Streets in San Francisco.

OVERT ACT NUMBER 11

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did take Robin Williams with them to Jerrold Street with the intention of murdering Robin Williams.

OVERT ACT NUMBER 12

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did walk on Jerrold Street approaching Quint Street with Robin Williams.

OVERT ACT NUMBER 13

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that while walking with Robin Williams defendants Wanda Fain and Joseph Diggs did shoot Robin Williams in the back of the head with a 9mm semi-automatic pistol.

210 211

604

People v. Gregory Brown, et al.SC 159271

Page 4

OVERT ACT NUMBER 14

It is alleged in the City and County of San Francisco, on or about the 7th day of February, 1995, that defendants Wanda Fain and Joseph Diggs did shoot at Robin Williams again while she was lying on the ground.

USE OF FIREARM ALLEGATION PURSUANT TO PENAL CODE SECTION 12022.5(a)  
[As to defendant JOSEPH DIGGS only]:

It is further alleged that in the commission and attempted commission of the above offense, the said defendant, JOSEPH DIGGS, personally used a firearm, to wit, a 9 mm semi-automatic pistol, within the meaning of Penal Code Section 12022.5(a) and also causing the above offense to be a serious felony within the meaning of Penal Code Section 1192.7(c)(8).

ARMED WITH A FIREARM ALLEGATION PURSUANT TO PENAL CODE SECTION  
12022(a)(1)[As to defendants GREGORY BROWN and WANDA FAIN only]:

It is further alleged that in the commission and attempted commission of the above offense a principal in said offense was armed with a firearm, to wit, a 9 mm semi-automatic pistol, said arming not being an element of the above offense, within the meaning of Penal Code Section 12022(a)(1).

ALLEGATION OF FELONY COMMITTED WHILE ON BAIL AND ON OWN RECOGNIZANCE  
PURSUANT TO PENAL CODE SECTION 12022.1[As to defendant GREGORY BROWN  
only]:

It is further alleged that the defendant, GREGORY BROWN, committed the above offense while he was released from custody in a felony offense, on bail and on his own recognizance, within the meaning of Penal Code Section 12022.1.

COUNT II:

The said defendants GREGORY BROWN, WANDA FAIN AND JOSEPH DIGGS, are further accused by the District Attorney of the City and County of San Francisco, State of California, by this Information, of the crime of felony, to wit: VIOLATION OF SECTION 664/187 OF THE CALIFORNIA PENAL CODE committed as follows: The said defendant on or about the 7th day of February, 1995, at the City and County of San Francisco, State of California, did wilfully, unlawfully, and with malice aforethought attempt to murder ROBIN WILLIAMS, a human being.

JTB 2/2

SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO - MINUTES		009
People of the State of California vs. GREGORY L. BROWN <span style="float: right;"><input checked="" type="checkbox"/> Present</span>		
SC #	Assistant DA of Record	Attorney of Record
159271-01	<input type="checkbox"/> Present	S. ARIAN <span style="float: right;"><input checked="" type="checkbox"/> Present</span>
	Clerk	Judge
	JOSIE C. ROQUE	DAVID A. GARCIA
Reporter		
JOSEPH H. VICKSTEIN#4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103		

Cause on Calendar for Arraignment  
 Special appearance by G. KOELLING, DA for the Assistant DA of Record.  
 Defendant has retained ARIAN/S, Esq.

Count	Code	Section	Degree	MC #	Plea
1	PC	182.1/F		01563370	NG
2	PC	664.187/F		01563370	NG

Defendant waives formal reading of the information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

## SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO - MINUTES

019

People of the State of California vs. WANDA LOUISE FAIN

☒ Present

SC #

159271-02

Assistant DA of Record

☐ Present

Attorney of Record

F. FUETSCH

☒ Present

Clerk

JOSIE C. ROQUE

Judge

DAVID A. GARCIA

Reporter

JOSEPH H. VICKSTEIN#4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Court has appointed FUETSCH/F, Public Defender.

Count	Code	Section	Degree	MC #	Plea
2	PC	664.187/F	1	01559424	NG
3	PC	245(A).2/F		01559424	NG
1	PC	182.1/F		01559424	NG

Defendant waives formal reading of the information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

SUPERIOR COURT IN THE CITY AND COUNTY OF SAN FRANCISCO		CISCO - MINUTES	011
People of the State of California vs. JOSEPH DIGGS <span style="float: right;"><input checked="" type="checkbox"/> Present</span>			
SC #	Assistant DA of Record	Attorney of Record	
159271-03	F. ANDREWS <span style="float: right;"><input type="checkbox"/> Present</span>	MARC SILVERSMIT	<input checked="" type="checkbox"/> Present
	Clerk	Judge	
	JOSIE C. ROQUE	DAVID A. GARCIA	
Reporter JOSEPH H. VICKSTEIN #4780, 850 BRYANT STREET, ROOM 306 - SAN FRANCISCO, CA 94103			

Cause on Calendar for Arraignment

Special appearance by G. KOELLING, DA for the Assistant DA of Record.

Court has appointed SILVERSMIT/MARC, conflict counsel.

Count	Code	Section	Degree	MC #	Plea
2	PC	664.187/F	1	01559442	NG
3	PC	245(A).2/F		01559442	NG
4	PC	12021A1/F		01559442	NG
1	PC	182.1/F		01559442	NG

Defendant waives formal reading of the Information.

Defendant is duly arraigned. Not guilty plea(s) as to each count and denial of any and all allegation(s), entered.

The defendant declares his/her true name to be that stated in the accusatory pleading.

Cause is ordered continued to 04/24/95 at 09:30 a.m. in Department S22 for Trial.

FILED 070  
San Francisco County Superior Court

MAR 24 1995

ALAN GARRISON, Clerk  
BY: [Signature] Deputy Clerk

STEPHEN ARIAN, Attorney at Law  
State Bar No. 38939  
Pier 33 South, #200  
San Francisco, CA 94111  
(415) 434-1550

Attorney for Defendant GREGORY L. BROWN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA,	)	No. 159271-0/
	)	
Plaintiff,	)	NOTICE OF MOTION FOR
	)	DISMISSAL OF COUNTS I
vs.	)	AND II OF THE INFORM-
	)	ATION UNDER SECTION 995
GREGORY L. BROWN,	)	OF THE PENAL CODE
WANDA FAIN, and JOSEPH DIGGS,	)	
	)	Date: April 7, 1995
Defendants.	)	Time: 9:00 A.M.
	)	Dept: 23

To the District Attorney of the City and County of San Francisco and to FLOYD ANDREWS, Deputy District Attorney:

PLEASE TAKE NOTICE that on the 7 day of April 1995, at 9:00 A.M. or as soon thereafter as the matter may be heard in Department 23 of the above entitled court, defendant GREGORY L. BROWN, through counsel will move the court for dismissal of Count I and II of the indictment herein as it relates to said defendant GREGORY L. BROWN, and to strike the enhancement allegations as they relate to said GREGORY L. BROWN, all under Section 995 of the California State Penal Code.

This motion is made on the grounds that there is no competent evidence to show probable cause to hold defendant

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

PEOPLE OF THE STATE OF CALIFORNIA VS.

ACTION NO. 159271

<u>GREGORY L. BROWN</u>	<u>-1</u>	<u>F. Andrews</u>	
DEFENDANT	PRESENT	ASSISTANT D.A.	PRESENT
<u>WANDA LOUISE FAIN</u>	<u>-2</u>	<u>S. Arian</u>	
DEFENDANT	PRESENT	DEFENSE COUNSEL	PRESENT
<u>JOSEPH DIGGS</u>	<u>-3</u>	<u>F. Fuetsch PD</u>	
DEFENDANT	PRESENT	DEFENSE COUNSEL	PRESENT
		<u>M. Silversmit</u>	
		DEFENSE COUNSEL	PRESENT

=====

CAUSE ON CALENDAR Mo. 995 PC (all); Mo. handwriting exemplar (Diggs)  
 Mo. discovery (Diggs); Motion for joinder in motions (Fain, Brown)

9:15 A.M.

The Court grants motion for joinder.

The Court grants the motion for discovery in part.

The Court grants the motion for handwriting exemplar.

9:30 A.M. The Court orders the matter continued to 1:30 P.M. for  
 hearing on 995 PC motion.

2:50 P.M.

Hearing resumes. The Court grants the 995 PC motion as to defendant BROWN  
 (Great Bodily Injury Allegation only). The 995 PC motion is denied in all  
 other respects.

Defendants are given standing to participate in the 1538.5 PC hearing in case  
 #159194 (Gregory Brown) Copy of proceedings had in that matter are attached  
 and incorporated herein by reference.

DEPT. 27 DATE April 15, 1995 PAGE       ATTEST: *[Signature]* DEPUTY CLERK

MARC J. ZILVERSMIT, ESQ.  
RIORDAN & ROSENTHAL  
Attorney At Law  
523 Octavia Street  
San Francisco, CA 94102  
Telephone: (415) 431-3472

Attorney for Defendant JOSEPH DIGGS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF CALIFORNIA	)	No. 159271
	)	
Plaintiff,	)	
	)	DECLARATION OF
vs.	)	<u>JUROR JOHN ELWOOD</u>
	)	
JOSEPH DIGGS,	)	
	)	
Defendant.	)	

I, John Elwood, declare under penalty of perjury that:

I was a juror in the case of People v. Joseph Diggs, Wanda Fain, and Gregory Brown, No. 159271.

During our deliberations we prepared a time line from January 6 to February 10 and made a time line for the evening of the incident. We were particularly concerned with the period between 7:30 pm and 8:35 pm on the night of the shooting. To help reconstruct what happened during that period, we consulted bus schedules that Jurors Alvin Bernstein and Monell Beurmann brought in on the second day of deliberations. These schedules provided us information about the intervals between buses and the frequency with which buses came; this information <sup>came along with testimony</sup> helped us fill <sup>in</sup> ~~stated~~ in our time line from 7:30 pm until 8:35 pm on the night of the shooting

Declaration of John Elwood  
Page 1

"A"

2/18

452

We also discussed a number of other things in our deliberations. We discussed the inconsistencies between defendant Wanda Fain's statement and defendant Joseph Diggs' statement. We discussed how these inconsistencies demonstrated that at least one of them was lying.

There was also discussion about access to guns which was in reference to defendant Greg Brown's prior arrest.

There were also discussions about defendant Greg Brown being a drug dealer and his propensity for violence and drugs and that kind of lifestyle. This was mostly in reference to defendant Brown's state of mind. Some jurors discussed that as a drug dealer, Brown's state of mind may be twisted and power hungry.

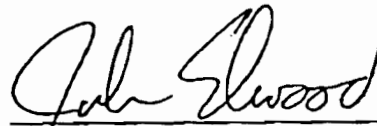
Some jurors also discussed that as a drug dealer, Brown might feel that there would be no consequences to his actions if he

killed Robin Williams. *The jurors who brought up discussions of def. Brown's lifestyle were reminded by other jurors that this line of deliberation was speculation & could not be used.*

Someone also made reference to the fact that if you do crack cocaine, it does not mean you lose your memory. *discuss* *he said* *M delib*

Some jurors also discussed defendant Joseph Diggs' medical condition, specifically his tremor. Juror Jordan Owens stated that this might explain how Diggs could have shot at Robin Williams and missed. *SPK*

Executed this 5 day of JULY, 1995 in San Francisco, California.



JOHN ELWOOD  
Declarant

Declaration of John Elwood  
Page 2

"A"

219

1 record that Mr. Brown personally did it?

2 MR. ANDREWS: I don't believe that with the conspiracy  
3 count I have to prove personal great bodily injury.

4 THE COURT: Well, you read it. It says:

5 "It is further alleged in the commission of  
6 the above offense said defendant, with the  
7 intent to inflict such injury, personally  
8 inflicted great bodily injury on Robin Williams."

If you look at page 6 of the Information.

MR. ANDREWS: If it's plead that way, it is incorrect.

The matter is submitted.

THE COURT: All right. Is the matter submitted?

MR. ARIAN: Submitted, your Honor.

4 THE COURT: All right. The Court will grant the 995  
5 Motion as to the great bodily injury allegation as to Mr.  
6 Brown. The other counts, the 995 motion is denied.

17 Let's go to the motion to suppress now.

18 All right. We will get started with it now. All right.  
19 Call your first witness.

20 MR. ANDREWS: Thank you, your Honor.

21 I will call Officer Walsh to the stand.

22 I will ask that Officer Jefferson be designated as my  
23 investigating officer.

24 THE COURT: All right.

25 MR. ARIAN: Your Honor, may I ask for an order excluding  
26 all witnesses?

27 THE COURT: Yes. All witnesses will be ordered excluded  
28 from the courtroom. You are not to discuss the testimony

17 1 instructions as it relates to how you are to conduct  
2 yourself. The process is as important as the product.

3 Does anyone have a problem or would they  
4 have a problem with following the instructions of the  
5 Court even if the result that would be reached by  
6 following the instructions of the Court were contrary to  
7 your gut reaction in a case as serious as the one that's  
8 charged here?

9 PROSPECTIVE JUROR: I think I would have a  
10 problem with it.

11 MR. FUETSCH: Do you feel as though --  
12 well, actually could you explain what you mean by you  
13 would have a problem with that?

14 PROSPECTIVE JUROR: I believe there's a  
15 higher authority than legal authority that is like moral  
16 authority, and to follow like a set of rules rather than  
17 more of a moral thing, I think I would be hardpressed to  
18 follow the set of rules that are outlined by law.

19 MR. FUETSCH: Let me ask you a pointed  
20 question. If, for example, and I'm not saying it's going  
21 to happen, if, for example, in the middle of the night  
22 the police came to your home and forced their way in and  
23 just searched your house and in your home discovered  
24 bombs, machine guns, bottom making material, whatever  
25 they discovered is illegal. And the prosecution sought  
26 to prosecute you for the crime of possessing that  
27 material or that item. There are laws, of course, that  
28 allow you as an individual through your attorney or

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1 individually to challenge the admissibility of such  
2 evidence, and the basis or reason for the law that allows  
3 you to challenge such evidence is the law of the  
4 constitution. That is, while we may not condone your  
5 conduct in possessing that, we nevertheless must hold the  
6 authorities to a very high standard. In the case I've  
7 described, that evidence wouldn't be admissible against  
8 you to convict you.

9 Do you think that's wrong?

10 PROSPECTIVE JUROR: No. In that particular  
11 case I don't think that's wrong, but I think if you  
12 misconstrue the constitution or broaden its actual  
13 authority, then I think that could be potentially wrong.

14 MR. FUETSCH: But in the illustration I've  
15 given you --

16 PROSPECTIVE JUROR: That's fine, I wouldn't  
17 have any problem with that.

18 MR. FUETSCH: One individual, and I think  
19 actually it was you again, indicated that you had been  
20 attacked some years ago by someone, correct?

21 PROSPECTIVE JUROR: That's correct.

22 MR. FUETSCH: And you suffered a concussion  
23 as a result of that?

24 PROSPECTIVE JUROR: A mild concussion.

25 MR. FUETSCH: Has anybody else here  
26 suffered a severe injury, say in, for example, an  
27 automobile accident or been attacked, anything wherein  
28 they've lost consciousness as a result of that injury.

19 1 All of us have ways of looking at things that control the  
2 way we lead our lives. We may think of that as a bias,  
3 but it's there. In this rather imperfect process we try  
4 to get at that a little bit, and I'm sure you'll all  
5 agree this is an imperfect process.

6 In that connection, and I don't want  
7 anyone, as Mr. Zilversmit said, to think that any of us  
8 are picking on you. We're really not, but when we hear  
9 things we feel the necessity within the time allotted to  
10 us to explore it.

11 Mr. Elwood, I heard you say something about  
12 broadening the authority of the constitution. Do you  
13 recall that comment?

14 PROSPECTIVE JUROR: I do.

15 MR. ARIAN: I wonder if you could say any  
16 more about that. I didn't get your complete thought.

17 PROSPECTIVE JUROR: My thought is a lot of,  
18 let's say, somebody's on trial, the jurors sit through  
19 the entire trial, they have a gut feeling that these  
20 defendants are, let's say, guilty, but a lot of  
21 circumstantial evidence has been brought in and it's been  
22 found -- or a legal issue has been brought up, a minor  
23 legal issue that speaks to their innocence. You're  
24 supposed to think they're innocent even though they're  
25 guilty, because it's a legal argument and it takes  
26 precedence over how you feel. You're suppose to follow  
27 that rather than how you feel, and you're supposed to  
28 say, yes, in fact, they're innocent when you feel they're

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19 1 guilty.

2 MR. ARIAN: As I hear what you're telling  
3 me, and please correct me, you're saying that as a juror  
4 your gut reaction is very important and you're going to  
5 pay a lot of attention to that?

6 PROSPECTIVE JUROR: No, you pay attention  
7 to the facts, but I'm saying that the facts don't  
8 necessarily jibe with, let's say, some legal arguments  
9 that take precedence over the facts. If you've listened  
10 to all the facts and you say, yes, they are innocent or  
11 guilty, but some legal precedence makes you dismiss that,  
12 then I have a big problem with that.

13 MR. ARIAN: You might not be able to do  
14 that?

15 PROSPECTIVE JUROR: No, I would not.

16 MR. ARIAN: Would that hold if the judge at  
17 the close of the case instructed you that you were to  
18 consider this evidence in a certain way and the  
19 instructions of the judge went counter to the feelings  
20 you just described, would you be forced to go with your  
21 feelings or the higher moral law you found, or would you  
22 feel compelled to follow the instructions of the Court  
23 with respect to that specific issue that was presented?

24 PROSPECTIVE JUROR: I really don't know  
25 sitting here right now.

26 MR. ARIAN: Would you have trouble with it?

27 PROSPECTIVE JUROR: I would have major  
28 problems.

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MR. ANDREWS: Was that a trial here on the third floor of the building?

PROSPECTIVE JUROR: Uh-huh.

MR. ANDREWS: Was that by any chance in front of the same judge?

PROSPECTIVE JUROR: No, it was not.

MR. ANDREWS: Was there a feeling on your part that it was as a result of a lack -- something lacking on the part of the police department?

PROSPECTIVE JUROR: No.

MR. ANDREWS: How about the District Attorney?

PROSPECTIVE JUROR: No.

MR. ANDREWS: When you say there was not enough evidence, was there an identification issue.

MR. ZILVERSMIT: I'll object. He's seeking to find out how this juror voted on that.

MR. ANDREWS: I didn't ask that.

THE COURT: Sustained.

MR. ANDREWS: Did you -- you don't have any problem with serving as a juror today on a similar kind of case?

PROSPECTIVE JUROR: No.

MR. ANDREWS: Thank you, Your Honor, I have nothing further.

THE COURT: At this point does any party wish to enter a challenge for cause?

But before you do that, Mr. Elwood, I was

*201/25*

2 1 little unclear about your statements.

2 Let me just read this question to you  
3 again: It important that I have your assurance that you  
4 will without reservation follow my instructions and  
5 rulings on the law and will apply that law to the case.  
6 To put it differently, whether you approve or disapprove  
7 of my instructions, it is your solemn duty to accept as  
8 correct my statements of the law. You may not substitute  
9 your own idea of what you think the law ought to be.

10 Would you be able to follow the law as  
11 given by me in this case?

12 PROSPECTIVE JUROR: I would, but I may have  
13 a problem with that, internal conflict.

14 THE COURT: I understand that. Okay.

15 Any party wish to exercise a challenge for  
16 cause? Please approach sidebar with the court reporter.

17 [Following bench conference not reported:]

18 MR. ZILVERSMIT: I have three challenges  
19 for cause, Judge. Wiley, Elwood and Lee.

20 Taking those, Mr. Lee because he obviously  
21 doesn't comprehend sufficient language to participate as  
22 a juror.

23 MR. ANDREWS: Are we doing --

24 THE COURT: Cause.

25 MR. ANDREWS: -- the whole 24 or just  
26 people in the box?

27 THE COURT: All 24.

28 MR. ZILVERSMIT: So Mr. Lee because of

5           1           The defense talk about, and it's all smoke  
2           2           and mirrors, he talks about all these other people who  
3           3           could want to kill her; it's the 240 pound guy, the 190  
4           4           pound guy, all these people.

5           5           And yet how does this work? How do you we  
6           6           get those people on Jerrold Avenue to shoot her in the  
7           7           head? It does not happen. How else do you figure it?

6           8           Robin is wandering down the street and --  
9           9           finish the sentence somehow. You can't. The only thing  
10          10          that works, the only thing that fits the physical  
11          11          evidence, the testimony of the witnesses, the taped  
12          12          statements, testimony from the experts, the only thing  
13          13          that works is that she's on Jerrold Avenue because she's  
14          14          following Joseph Diggs and Wanda Fain.

15          15          The only theory that fits about the note,  
16          16          Wanda is not writing this because she's mad, she's  
17          17          writing this for Gregory Brown. They're all in the same  
18          18          house. Gregory has got a problem, he's got a court case  
19          19          coming up. But he knows how to deal with this problem.  
20          20          Because he's got a gullible little girl, and he can get  
21          21          her out to Jerrold Avenue and shoot her and leave her for  
22          22          dead through the other two, and that's it. That would be  
23          23          easier. That will be clean. If they had done the wrong  
24          24          right and killed her, you wouldn't be here today because  
25          25          we wouldn't have any clue.

26          26          And that's all I have to say. I want you  
27          27          to look carefully at what you've heard, what you saw. If  
28          28          somebody said something on that stand, just because we're

6 1 in court, we're in a formal setting, everybody says  
2 "please" and "thank you," does not mean you should  
3 believe anything you hear here that you wouldn't believe  
4 outside those doors?

5 Use your common sense. You certainly  
6 shouldn't believe anything you've heard here unless it  
7 fits the evidence you've heard.

8 Based on that I'm asking you to find the  
9 defendants guilty of attempted murder of Robin Williams.  
10 Because they did it.

11 Conspiracy to commit murder.

12 Assault with a deadly weapon.

13 Possession of a firearm by an ex-felon.

14 Because they did it, for no other reason.  
15 They did it, and that's why you're here today.

16 Thank you, Your Honor.

17 THE COURT: Thank you, Mr. Andrews.

18 At this point, ladies and gentlemen, it's  
19 quarter to 5. I have about ten minutes worth of  
20 instructions to read you, the concluding instructions,  
21 then I want to go over the verdict forms with you which  
22 is going to take some time.

23 Rather than do that today we're going to  
24 reconvene tomorrow at 10. I will then finish the  
25 instructions, go over the jury forms, and we'll be  
26 finished.

27 I know one of you has a problem tomorrow,  
28 and hopefully you can change the appointment either later

EXHIBIT - H

SAN QUENTIN STATE PRISON  
PSYCHOLOGICAL EVALUATION FORM

I. Identifying InformationStatus: NCRec.d: 10/31/95Name: BROWN, GREGORY CDC#: J-82241II. Basis of Referral/Presenting Problem:30 year old, SINGLE AFRICAN-AMERICAN MALE

referred by: DAVE SARGENT Due to: POSSIBLE MATRIL DEPENDENCY  
INMATE HIMSELF EXPRESSES HIS UPSET OVER HIS CASE WHERE  
HE CLAIMS TO HAVE BEEN WRONGFULLY ACCUSED.

III. Mental Health History:Social: RAISED BY MOTHER, EMPLOYED, 2 CHILDREN,Psych Hosp: DENIESPsych Meds: DENIESSuicide Attempts: DENIESMedical Problems: BACK & KNEE INJURYSubstance Abuse: DENIESIV. Current Mental Status Examination:Appearance: WELL GROOMED Behavior: APPROPRIATEMood/Affect: DEPRESSED Speech: NORMALPerceptual Disorders: Ø AUDITORY OR VISUAL HALUCINATIONSThought Content: Ø SUICIDAL, HOMICIDAL, OR PARANOID IDEATIONThought Process: INTACT Sensorium: INTACTMemory: GOOD Concentration: FIRMInformation: GOOD Judgement: GOODInsight: GOOD

(CONTINUED)

Clinician's Name	Date	Inmate Name (Last, First)
(Print) <u>R. Flax, Ph.D.</u>	<u>11/3/95</u>	<u>BROWN, GREGORY</u>
(Signature) <u>[Signature]</u>		CDC # <u>J-82241</u> Cell # <u>4C44</u>

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State of California, Department of Corrections: <u>N</u> C / S Region, SA = <u>C</u> , Institution = <u>MCSP</u> <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		
CONDENSED MENTAL HEALTH ASSESSMENT & TREATMENT SETTING TRANSFER: Date <u>3/6/98</u>		
Variety Use Include: Admission Intake, Transfer, Parole, Discharge, MHCB Screen & Assessment. Page 1 of 5		
Current Setting: <input type="checkbox"/> GP <input type="checkbox"/> Ad Seg <input type="checkbox"/> SHU <input type="checkbox"/> RC <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> PSU <input type="checkbox"/> MHCB <input type="checkbox"/> Other:		
I/M Ethnicity: <u>AA</u>	Non English Language:	Level: I / II / III / IV <u>bas</u> / SHU
CDC Arrival date:	CDC Release date: <u>2032</u>	<input type="checkbox"/> MH 1 <input checked="" type="checkbox"/> MH 4, MH 7 Date: <u>3/6/98</u>
Inmate interviewed on: <u>3/6/98</u>	Level of Cooperation: <u>good</u>	DDPS <u>-</u> <input type="checkbox"/> Not Noted.

## I. Purpose for Condensed Mental Health Assessment:

A. ☒ Condensed Initial Assessment (Intake) Form (May Replace or Delay MH 1 Assessment / Data Base.)☐ MH 1; ☐ MH 7; ☐ Bus Screening; ☐ Page 2 (Psychiatric History) as ☐ Update or ☐ Initial historyB. ☐ Transfer to New Setting Recommended DDPS Code Change To: -☐ Return to Custody ☐ GP ☐ OSAP ☐ POC & Complete Page 5.☐ To Out-patient ☐ CCCMS☐ EOP: Was tele-fax used? yes ☐ no ☐; Was approval obtained? yes ☐ no ☐ Conditional ☐☐ PSU☐ To In-patient ☐ MHCB ☐ Infirmary: CTC pre-screening? yes ☐ no ☐ Details:☐ DMH ☐ Criminal History Supplemental Form needed. DMH Care Level → ☐ Intermediate ☐ Acute

Describe referral methods:

Describe current symptoms/concerns that indicate a need for Inpatient:

Desired Inpatient Treatment outcome:

Was Above: ☐ Intra or ☐ Inter Institution ☐ Other (Outside) - ☐ No ☐ Yes Transfer Chrono by -C. ☐ Pre Parole Release (Complete page 5: MH 4 > CCI > C&PR > Form 611 > Parole Regional HQ & POC Clinician.)D. ☐ Department of Correction Discharge. No CDC Follow Up. ☐ Inter State Compact to: - (state)☐ To Other Treatment Source:Name: - Telephone: ( ) - FAX: ( ) -Address: -☐ Consent to Release Specific Records, Coordinate with Health Records. ☐ QA Follow Up Plan Discussed Below.II. Brief Narrative Summary: ☐ Expanded on Insert-a-Page

*IM seen per Teacher referral and self-referral. Extremely paranoid that the "cops are going to kill me" Done a Rx of 6 yrs ago when the cops on the street were even watching him "even the ones in plain clothes, the ones working on telephone poles, and the one with clipboards." Afraid to take meds.*

CONDENSED MENTAL HEALTH ASSESSMENT & TREATMENT SETTING TRANSFER & PAROLE/DISCHARGE FORM MH 4 Page: 1 of 5 [3/28/96] Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	LEVEL OF CARE	Last Name: <u>Brown</u>	First Name: <u>Gregory</u>	MI: <u>-</u>
	Inpatient <u>Outpatient</u>	CDC # <u>J-82241</u> DOB <u>8/26/65</u>		

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> <b>MH 4</b> Page: 2 of 5 [3/28/96] Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Last Name: <u>Brown</u>	First Name: _____	MI: _____
	Inpatient  Outpatient	CDC # <u>J.82241</u>	DOB <u>1/1/</u>	

Condensed Mental Health Assessment & Treatment Setting Transfer:				Page 3 of 5
<b>IV. Present Mental Status</b> Date <u>3/6/98</u>				
A) Appearance <input checked="" type="checkbox"/> WNL				
B) Behavior <input type="checkbox"/> WNL		Speech <input checked="" type="checkbox"/> WNL		
C) Mood <input checked="" type="checkbox"/> WNL		Sleep <input type="checkbox"/> WNL <u>2-2 1/2 hrs</u>		Appetite <input type="checkbox"/> WNL <u>✓</u>
Affect <input type="checkbox"/> WNL <u>flat</u>				
D) Cognition:				
1) Fund of Information <input checked="" type="checkbox"/> WNL				
2) Intellectual Functions <input checked="" type="checkbox"/> WNL				
3) Organization of Thought <input checked="" type="checkbox"/> WNL				
4) Association of Thought <input checked="" type="checkbox"/> WNL				
5) Reality Contact <input type="checkbox"/> WNL				
6) Thought Quality <input type="checkbox"/> WNL <u>poor</u>				
E) Perception Disturbances (Hallucinations) <input type="checkbox"/> None <u>A/H "but that's not realistic"</u>				
F) Thought Content (Delusions) <input type="checkbox"/> None <u>Severe paranoia</u>				
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL <u>poor</u>				
H) Insight & Judgment <input type="checkbox"/> WNL <u>poor</u>				
I) Interview Attitude <input checked="" type="checkbox"/> WNL				
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.				
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.				

V. DSM IV Numerical - Transferring / Discharge / Provisional (Discussion, diagnostic certainty.)	
Axis I	<u>Major Depression, w/ psychotic features</u>
	<u>Substance-Induced Delusional Disorder</u>
	<u>Poly substance Abuse</u>
Axis II	<u>Deferred</u>
Axis III	
Axis IV	(current) <u>incarceration</u>
Axis V	GAF = <u>51</u> (Discuss basis.)
Discussion and Diagnostic Certainty:	
<input type="checkbox"/> Dual Diagnosis	

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 Page: 3 of 5 [3/28/96] Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <u>Brown</u> First Name: _____      MI: _____  CDC # <u>J-82241</u> DOB <u>1/1/</u>
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State of California, Department of Corrections: N/C/S Region, Service Area = C, Institution = MCSP

<b>MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number</b>			<b>Page 1 of 2</b>
<input checked="" type="checkbox"/> Original <input type="checkbox"/> Update <input type="checkbox"/> Rejustification <input type="checkbox"/> CCCMS Annual Case Review			
<b>I. General Information:</b> Arrival Date This Treatment Setting: <u>   </u> / <u>   </u> / <u>   </u> <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB/Infirmary <input type="checkbox"/> PSU -- <input type="checkbox"/> <u>   </u> week observation. Anticipated Date of Transfer to GP: <u>   </u> / <u>   </u> / <u>   </u> Custody Level: I / II / III / <u>IV</u> / AdS / SHU		By: <input type="checkbox"/> Team <input type="checkbox"/> Individual Clinician <input type="checkbox"/> MH 6 <input type="checkbox"/> C File <input type="checkbox"/> Health Record <input type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1 <input type="checkbox"/> MH 4 <input type="checkbox"/> Prior MH 2 <u>   </u> / <u>   </u> / <u>   </u> Today Date <u>3/23/98</u> Next Up Date <u>3/23/99</u>	
<b>II. Print Treatment Team Members</b>			
<b>Position</b>		<b>Telephone &amp; Extension</b>	
<u>J. Hess MD</u>			
<u>S. Santos PSU</u>			
<b>III. Present Mental Status</b> Date <u>3/6/98</u> By <u>S. Santos, Aesw</u> Title <u>PSU</u>			
A) Appearance <input checked="" type="checkbox"/> WNL			
B) Behavior <input type="checkbox"/> WNL		Speech <input checked="" type="checkbox"/> WNL	
<u>fearful, fearful</u>			
C) Mood <input checked="" type="checkbox"/> WNL	Sleep <input type="checkbox"/> WNL	Appetite <input type="checkbox"/> WNL	Affect <input type="checkbox"/> WNL
<u>2-2 1/2 hrs</u> <u>↑↓</u> <u>flat</u>			
D) Cognition:			
1) Fund of Information <input checked="" type="checkbox"/> WNL			
2) Intellectual Functions <input checked="" type="checkbox"/> WNL			
3) Organization of Thought <input type="checkbox"/> WNL			
4) Association of Thought <input type="checkbox"/> WNL			
5) Reality Contact <input type="checkbox"/> WNL			
6) Thought Quality <input type="checkbox"/> WNL <u>&gt; poor</u>			
E) Perception Disturbances (Hallucinations) <input type="checkbox"/> None <u>A/H "but that's not realistic"</u>			
F) Thought Content (Delusions) <input type="checkbox"/> None <u>Severe paranoia</u>			
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL <u>poor</u>			
H) Insight & Judgment <input type="checkbox"/> WNL <u>poor</u>			
I) Interview Attitude <input checked="" type="checkbox"/> WNL			
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.			
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.			

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Last Name: <u>Brown</u> First Name: <u>Gregory</u> MI: <u></u>  Inpatient Outpatient
		CDC # <u>T-82241</u> DOB <u>8/26/65</u>

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE <u>8-31-00</u> <input type="checkbox"/> Last TP <u>7-10-00</u> MH 1 <input type="checkbox"/> Last MH 4 <input type="checkbox"/> <u>3-23-98</u> <span style="float: right;">8-31-00</span>		
Axis I	297.1	R/O Delusional Disorder Persecutory Type
Axis II	301.0	Paranoid Personality
Axis III		Aseptic Necrosis of Hip - Bilateral Back and hip problems walks assisted with cane
Axis IV		(current) Transfer to HOSP; perceived lack of medical services
Axis V	GAF = <u>65</u>	Describe basis. 8-31-00 clinical interview
V. Problem / Symptom List		
#1	History of extreme anxiety, fearfulness, hypervigilance	
#2	R/O persecutory delusions	
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input checked="" type="checkbox"/> MH 6 Input		
S - trying to adjust, polite, attempts to please		
W - angers easily, poor self-responsibility		
G - maintain current stability, adjust to HOSP		
Treatment Readiness: <input checked="" type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input checked="" type="checkbox"/> GP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHC <input type="checkbox"/> DMH		
Transfer to GP when IOIT determines clinically appropriate		
Signature(s) S. Michaels, PSW (Signature) D. Davis PhD		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages - Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b> C3 MS  Inpatient <input checked="" type="radio"/> Outpatient	Last Name: <u>Brown, Gregory</u> First Name: <u>Gregory</u> MI: <u></u>  CDC # <u>J-82241</u> DOB <u>8-26-65</u>
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Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE <u>  </u> / <u>  </u> / <u>  </u> <input type="checkbox"/> Last TP <u>  </u> / <u>  </u> / <u>  </u> MH 1 <input type="checkbox"/> <u>  </u> / <u>  </u> / <u>  </u> Last MH 4 <input type="checkbox"/> <u>  </u> / <u>  </u> / <u>  </u>		
Axis I		<i>R/o Major Depression - w/ Psychotic Features</i>
		<i>R/o Delusional Disorder</i>
Axis II		<i>Deferred</i>
Axis III		
Axis IV		(current) <i>Incarceration</i>
Axis V		GAF = <i>5</i> Describe basis.
V. Problem / Symptom List		
#1	<i>Severe Paranoia</i>	
#2		
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
Treatment Readiness: <input checked="" type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input checked="" type="checkbox"/> GP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
<i>X1 yr 5 S/S of major mental illness or Intervention</i>		
Signature(s) <i>S. Sands, ACSW</i>		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Last Name: <i>Brown</i> First Name: MI: CDC # <i>J-82241</i> DOB <i>1/1/</i>	
	Inpatient		
	Outpatient		

State of California, Department of Corrections: N C/S Region, Service Area = C, Institution, MCSPTREATMENT PLAN PART TWO: PROBLEM → # 01 pg. 003 Today Date: 9/18/98☐ Initial Treatment Plan ☐ Update because \_\_\_\_\_ ☐ Re-justify, \_\_\_\_\_ weeks

Prob. #	Describe Problem:	Possible Completion	Date
	Next Review		Date
# 01	<i>Severe Paranoia</i>		
	Target Behavior(s):		
	<i>↑ Paranoia</i>		
	Target Objective(s):		
	<i>↓ Paranoia</i>		
Date	Intervention (s) & Staff Assigned.	Frequency and Duration.	Results.
<i>3/28/98</i>	<i>Continue 4 meds per physician order</i>	<i>q 90 days</i>	
	<i>acm contact</i>	<i>q 90 days</i>	

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <i>Brown</i>  First Name: _____ MI: _____  CDC # <i>J-82241</i> DOB <i>1/1</i>

State of California, Department of Corrections: N C/S Region, Service Area = A, Institution = SAC

## MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number Page 1 of 2

☐ Original ☒ Update ☐ Rejustification ☐ CCCMS Annual Case Review

## I. General Information:

Arrival Date This Treatment Setting: \_\_\_/\_\_\_/\_\_\_

☒ CCCMS ☐ EOP ☐ MHCIB/Infirmary☐ PSU -- ☐ \_\_\_ week observation.

Anticipated Date of Transfer to GP: \_\_\_/\_\_\_/\_\_\_

By: ☐ Team ☒ Individual Clinician☐ MH 6 ☐ C File ☐ Health Record☐ Unit Health Record ☐ MH 1☐ MH 4 ☐ Prior MH 2 \_\_\_/\_\_\_/\_\_\_

Today Date

7/10/00

Next Up Date

\_\_\_/\_\_\_/\_\_\_

Custody Level: I / II / III IV AdS / SHU

## II. Print Treatment Team Members

Position

Telephone &amp; Extension

T. HEDBLAD, PLDCCM6336P. MARROW, MDMD6335III. Present Mental Status Date 7/10/00 By T. Hedblad, PLDA) Appearance ☒ WNLB) Behavior ☒ WNLSpeech ☒ WNLC) Mood ☒ WNLSleep ☐ WNLAppetite ☒ WNLAffect ☒ WNLMILD DEPRESSIONINSOMNIA

D) Cognition:

1) Fund of Information ☒ WNL2) Intellectual Functions ☒ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☒ WNL5) Reality Contact ☐ WNL PARANOID6) Thought Quality ☒ WNLE) Perception Disturbances (Hallucinations) ☒ NoneF) Thought Content (Delusions) ☐ None PARANOIDG) Sensorium (Orientation, Memory, Attention, Concentration) ☒ WNLH) Insight & Judgment ☐ WNLIMPAIRED AROUND DELUSIONSI) Interview Attitude ☒ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☐ None noted or stated. POSSIBLEMENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths

Part Two: Problem Pages -- Results

Use Insert-a-Page of MH 1

Confidential Client/Patient Information

See W &amp; I Code, Section 5328

LEVEL OF  
CARE3C

Inpatient

Outpatient

Last Name:

First Name:

MI:

BROWNCDC # J82241

DOB \_\_\_/\_\_\_/\_\_\_

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE _/_/_ <input type="checkbox"/> Last TP _/_/_ MH I <input type="checkbox"/> _/_/_ Last MH 4 <input type="checkbox"/> _/_/_		
Axis I		DELUSIONAL D/O, PARANOID
Axis II		DEFERRED
Axis III		HIP (ARDEPTIC NEUROSIS)
Axis IV		(current) INCARCERATION
Axis V		GAF = <u>55</u> Describe basis.
V. Problem / Symptom List		
#1 PARANOID		
#2		
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input checked="" type="checkbox"/> GP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHC B <input type="checkbox"/> DMH		
Signatures: <i>[Signature]</i> PLD		

<p align="center"><b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 [3/29/96]</b></p> <p>Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W &amp; I Code, Section 5328</p>	<p><b>LEVEL OF CARE</b></p> <p style="font-size: 2em;">3C</p> <p>Inpatient</p> <p>Outpatient</p>	<p>Last Name: <b>BROWN</b>      First Name:      MI:</p> <p align="center" style="font-size: 1.5em;">182241</p> <p>CDC # <u>182241</u>      DOB _/_/_</p>
---	--	---

State of California, Department of Corrections: (N) C / S Region, Service Area = A, Institution, SACTREATMENT PLAN PART TWO: PROBLEM → # \_\_\_\_\_ pg. \_\_\_\_\_ Today Date: 7/16/00☐ Initial Treatment Plan ☒ Update because 92 ☐ Re-justify, \_\_\_\_\_ weeks

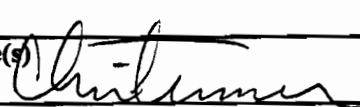
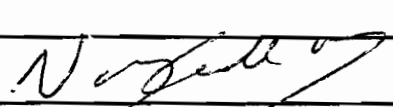
Prob. #	Describe Problem:	Possible Completion	Date
	<u>PARANOID</u>	Next Review	Date
	Target Behavior(s):		
	<u>POTENTIAL VIOLENCE</u>		
	Target Objective(s):		
	<u>VSX</u>		
Date	Intervention (s) & Staff Assigned.	Frequency and Duration.	Results.
<u>7/16/00</u>	<u>WRITE SINGLE CELL CARNO</u>		
	<u>F/U IN CCMS</u>		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b> <u>3C</u> Inpatient Outpatient	Last Name: <u>BROWN</u> First Name: _____ MI: _____ CDC # <u>182241</u> DOB <u>___/___/___</u>

State of California, Department of Corrections: N / C / S Region, Service Area = C, Institution = MCSP

<b>MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number</b>		<b>Page 1 of 2</b>
<input type="checkbox"/> Original <input type="checkbox"/> Update <input type="checkbox"/> Rejustification <input type="checkbox"/> CCCMS Annual Case Review		
<b>I. General Information:</b> Arrival Date This Treatment Setting: <u>   </u> / <u>   </u> / <u>   </u> <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCIB/Infirmary <input type="checkbox"/> PSU -- <input type="checkbox"/> <u>   </u> week observation. Anticipated Date of Transfer to GP: <u>   </u> / <u>   </u> / <u>   </u> Custody Level: I / II / III / IV / AdS / SHU		By: <input type="checkbox"/> Team <input type="checkbox"/> Individual Clinician <input type="checkbox"/> MH 6 <input type="checkbox"/> C File <input type="checkbox"/> Health Record <input type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1 <input type="checkbox"/> MH 4 <input type="checkbox"/> Prior MH 2 <u>   </u> / <u>   </u> / <u>   </u> Today Date <u>   </u> / <u>   </u> / <u>   </u> Next Up Date <u>   </u> / <u>   </u> / <u>   </u>
<b>II. Print Treatment Team Members</b> <b>Position</b> <b>Telephone &amp; Extension</b>		
<b>III. Present Mental Status</b> Date <u>5/7/99</u> By <u>RHARRISON</u> Title <u>PSW</u>		
A) Appearance <input checked="" type="checkbox"/> WNL		
B) Behavior <input checked="" type="checkbox"/> WNL                      Speech <input type="checkbox"/> WNL		
C) Mood <input type="checkbox"/> WNL                      Sleep <input type="checkbox"/> WNL                      Appetite <input type="checkbox"/> WNL                      Affect <input type="checkbox"/> WNL		
D) Cognition: 1) Fund of Information <input checked="" type="checkbox"/> WNL 2) Intellectual Functions <input type="checkbox"/> WNL 3) Organization of Thought <input checked="" type="checkbox"/> WNL 4) Association of Thought <input checked="" type="checkbox"/> WNL 5) Reality Contact <input type="checkbox"/> WNL 6) Thought Quality <input type="checkbox"/> WNL		
E) Perception Disturbances (Hallucinations) <input checked="" type="checkbox"/> None		
F) Thought Content (Delusions) <input type="checkbox"/> None		
G) Sensorium (Orientation, Memory, Attention, Concentration) <input checked="" type="checkbox"/> WNL		
H) Insight & Judgment <input type="checkbox"/> WNL		
I) Interview Attitude <input type="checkbox"/> WNL		
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.		
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> <b>MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Last Name: <u>BROWN, OLGA</u> First Name: <u>OLGA</u> MI: <u>   </u>
	Inpatient  Outpatient	CDC # <u>J-82241</u> DOB <u>   </u> / <u>   </u> / <u>   </u>

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE <u>  </u> / <u>  </u> / <u>  </u> <input type="checkbox"/> Last TP <u>  </u> / <u>  </u> / <u>  </u> MH 1 <input type="checkbox"/> <u>  </u> / <u>  </u> / <u>  </u> Last MH 4 <input type="checkbox"/> <u>  </u> / <u>  </u> / <u>  </u>		
Axis I	297.1	DELUSION S/D, PERSECUTION
		SUSPECT CONSPIRACY S. M. "FAD UP."
Axis II	299.9.	DAF
Axis III		
Axis IV		(current)
Axis V	GAF = <u>65</u>	Describe basis. POSS NOT WANT MADE
V. Problem / Symptom List		
#1		
#2		
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input type="checkbox"/> GP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
Signature(s)  		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: _____ First Name: _____ MI: _____  CDC # _____ DOB <u>  </u> / <u>  </u> / <u>  </u>
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State of California, Department of Corrections: N / C / S Region, Service Area = \_\_, Institution, \_\_

TREATMENT PLAN PART TWO: PROBLEM → # \_\_ pg. \_\_ Today Date: \_\_/\_\_/\_\_

☐ Initial Treatment Plan ☐ Update because \_\_ ☐ Re-justify, \_\_ weeks

Prob. #	Describe Problem:	Possible Completion	Date
	STAYS IN CELL	Next Review	Date
	Target Behavior(s): ABUSE		
	Target Objective(s): SOCIALIZED MORE		
Date	Intervention (s) & Staff Assigned.	Frequency and Duration.	Results.
	REACTS INAPPROPRIATE		
	1x90 PM.		
	RAF. MARRITT -		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Last Name: _____ First Name: _____ MI: _____  CDC # _____ DOB ____/____/____
	Inpatient  Outpatient	

State of California, Department of Corrections: N C/S Region, Service Area = B, Institution = HDSP

MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number: \_\_\_\_\_ Page 1 of 2

☐ Original ☒ Update ☐ Rejustification ☐ CCCMS Annual Case Review

## I. General Information:

Arrival Date This Treatment Setting: 6 HDSP  
8/12/00☒ CCCMS ☐ EOP ☐ MHC/Infirmary☐ PSU - ☐ \_\_\_\_\_ week observation.Anticipated Date of Transfer to GP: 9/16/01Custody Level: I / II / III / IV / AdS / SHUBy: ☒ Team ☐ Individual Clinician☐ MH 6 ☐ C File ☐ Health Record☐ Unit Health Record ☐ MH 1☒ MH 4 ☒ Prior MH 2 7/16/00

Today Date

9/16/00

Next Up Date

9/16/01

## II. Print Treatment Team Members

## Position

## Telephone &amp; Extension

T. NOLAN

SR. PSYCHOLOGIST

(530) 251-5100 X6748

C. LETT

STAFF PSYCHIATRIST

" "

S. MICHELS

PSYCH. SOC. WORKER

" "

III. Present Mental Status Date 8/31/00 By S. Michels Title PSWA) Appearance ☒ WNLB) Behavior ☒ WNLSpeech ☒ WNLC) Mood ☒ WNLSleep ☒ WNLAppetite ☒ WNLAffect ☒ WNL

## D) Cognition:

1) Fund of Information ☒ WNL2) Intellectual Functions ☒ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☒ WNL5) Reality Contact ☒ WNL6) Thought Quality ☒ WNLE) Perception Disturbances (Hallucinations) ☒ NoneF) Thought Content (Delusions) ☒ NoneHistory of hypervigilance; fears others are informantsG) Sensorium (Orientation, Memory, Attention, Concentration) ☒ WNLH) Insight & Judgment ☒ WNLI) Interview Attitude ☒ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☒ None noted or stated.MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths

Part Two: Problem Pages - Results

Use Insert-a-Page of MH 1

Confidential Client/Patient Information

See W &amp; J Code, Section 5328

LEVEL OF  
CAREC3MS

Inpatient

Outpatient

Last Name:

First Name:

MI:

Brown, Gregory

CDC #

J-82241

DOB

8-26-65

State of California, Department of Corrections: <u>N</u> C / S Region, SA = <u>B</u> , Institution = <u>HOSP</u> <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		
CONDENSED MENTAL HEALTH ASSESSMENT & TREATMENT SETTING TRANSFER:		Date <u>8/1/00</u>
Variety Use Include: Admission Intake, Transfer, Parole, Discharge, MHCB Screen & Assessment.		Page 1 of 5
Current Setting: <input type="checkbox"/> GP <input type="checkbox"/> Ad Seg <input type="checkbox"/> SHU <input type="checkbox"/> RC <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> PSU <input type="checkbox"/> MHCB <input type="checkbox"/> Other:		
I/M Ethnicity: <u>Black</u>	Non English Language: <u>-</u>	Level: I / II / III / <u>IV</u> / AS / SHU
CDC Arrival date: <u>8-21-00 to HOSP</u>	CDC Release date: <u>1-29-2013</u>	<input type="checkbox"/> MH 1 <input checked="" type="checkbox"/> MH 4 <input type="checkbox"/> MH 7 Date: <u>3-23-98</u>
Inmate interviewed on: <u>8/1/00</u>	Level of Cooperation: <u>adequate</u>	DDPS <u>-</u> <input checked="" type="checkbox"/> Not Noted.
<b>I. Purpose for Condensed Mental Health Assessment:</b>		
A. <input checked="" type="checkbox"/> Condensed Initial Assessment (Intake) Form (May Replace or Delay MH 1 Assessment / Data Base.)		
<input type="checkbox"/> MH 1; <input type="checkbox"/> MH 7; <input checked="" type="checkbox"/> Bus Screening; <input checked="" type="checkbox"/> Page 2 (Psychiatric History) as <input checked="" type="checkbox"/> Update or <input type="checkbox"/> Initial history		
B. <input type="checkbox"/> Transfer to New Setting Recommended DDPS Code Change To: <u>-</u>		
<input type="checkbox"/> Return to Custody <input type="checkbox"/> GP <input type="checkbox"/> OSAP <input type="checkbox"/> POC & Complete Page 5.		
<input type="checkbox"/> To Out-patient <input type="checkbox"/> CCCMS		
<input type="checkbox"/> EOP: Was tele-fax used? yes <input type="checkbox"/> no <input type="checkbox"/> ; Was approval obtained? yes <input type="checkbox"/> no <input type="checkbox"/> Conditional <input type="checkbox"/>		
<input type="checkbox"/> PSU		
<input type="checkbox"/> To In-patient <input type="checkbox"/> MHCB <input type="checkbox"/> Infirmary: CTC pre-screening? yes <input type="checkbox"/> no <input type="checkbox"/> Details:		
<input type="checkbox"/> DMH <input type="checkbox"/> Criminal History Supplemental Form needed. DMH Care Level → <input type="checkbox"/> Intermediate <input type="checkbox"/> Acute		
Describe referral methods:		
Describe current symptoms/concerns that indicate a need for Inpatient:		
Desired Inpatient Treatment outcome:		
Was Above: <input type="checkbox"/> Intra or <input type="checkbox"/> Inter Institution <input type="checkbox"/> Other (Outside) <input type="checkbox"/> No <input type="checkbox"/> Yes Transfer Chrono by <u>-</u>		
C. <input type="checkbox"/> Pre Parole Release (Complete page 5: MH 4 > CCI > C&PR > Form 611 > Parole Regional HQ & POC Clinician.)		
D. <input type="checkbox"/> Department of Correction Discharge. No CDC Follow Up. <input type="checkbox"/> Inter State Compact to: <u>-</u> (state)		
<input type="checkbox"/> To Other Treatment Source:		
Name: <u>-</u> Telephone: ( ) <u>-</u> FAX: ( ) <u>-</u>		
Address: <u>-</u>		
<input type="checkbox"/> Consent to Release Specific Records, Coordinate with Health Records. <input type="checkbox"/> QA Follow Up Plan Discussed Below.		
<b>II. Brief Narrative Summary:</b> <input type="checkbox"/> Expanded on Insert-a-Page		
<p>35 y/o old Black male, arrived HOSP 8-21-00 from CSP-SAC. Current MHPC in C-file dated 7-18-00 C3MS, GAF 75, no med. Previous MH4 done 3-23-98 at MCSP. Previous MH2s done 3-23-98 and 5-07-99 at MCSP, and 7-10-00 at CSP-SAC. Diagnosis since 1995 have been Adjustment Disorder with Depressed Mood, R/O Major Depression with Psychotic Features, Polydrug Abuse, Substance-induced Psychotic Disorder, Delusional Disorder, Persecutory Type, No del on Axis I, Personality O/O, and Schizophrenia.</p>		
CONDENSED MENTAL HEALTH ASSESSMENT & TREATMENT SETTING TRANSFER & PAROLE/DISCHARGE FORM MH 4 Page: 1 of 5 [3/28/96] Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	LEVEL OF CARE <u>C3MS</u>  Inpatient <u>Outpatient</u>	Last Name: <u>Brown</u> First Name: <u>Gregory</u> MI: <u>-</u>  <u>J-82241</u> <u>8-26-65</u> CDC # <u>-</u> DOB <u>1/1</u>

# Condensed Mental Health Assessment & Treatment Setting Transfer:

## III. MENTAL HEALTH & HEALTH HISTORY: ☐ See Unit Health Record

(If an item is normal, check normal or none. If a deviation, elaborate.)

A. Developmental Problem ☒ Normal ☐ Abnormal

B. Marital: circle: S / M / D / W

C. Work History: ☐ None ☒ Some ☐ Erratic ☐ Extensive

D. Mental Health History: ☒ None known ☐ Yes

### E. Issues and Problems

1. Psychiatric Hospitalization ☒ None ☐ Yes

2. Psychotropic Medication in the last 2 years ☒ None ☐ Yes

3. Outpatient Treatment ☒ None ☐ Yes

4. MH Treatment while incarcerated/paroled ☐ None ☒ Yes

5. History of Substance Abuse ☐ None ☒ Yes

6. Release of information requested ☒ No ☐ Yes

F. Suicidal Behavior ☒ Denies History ☒ None Found ☐ Present

G. Violent Behavior ☐ Denies History ☒ None Found ☐ Present

H. Discuss Significant Medical History (Head Traumas, HIV, Seizures) ☐ None Found ☒ Present

### I. Other or Additional Comments:

Claims work-related injury caused back problems. Does have substantiation in UHR for hip problems. Walks with cane and is currently medically unassigned.

Appears stable currently. Denies guilt for commitment offense. Is frustrated with transfer and perceived lack of medical services. Escalates anger quickly when discussing these subjects.

CONDENSED MENTAL HEALTH ASSESSMENT  
& TREATMENT SETTING TRANSFER  
& PAROLE/DISCHARGE FORM  
MH 4

Page: 2 of 5 [3/28/96]  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & J Code, Section 5328

LEVEL OF  
CARE

C3MS

Inpatient

Outpatient

Last Name:

First Name:

MI:

Brown, Gregory

CDC #

J-82241

DOB

8-26-65

1-1

Condensed Mental Health Assessment & Treatment Setting Transfer:				Page 3 of 5
<b>IV. Present Mental Status</b>		Date <u>8/31/00</u>		
A) Appearance <input checked="" type="checkbox"/> WNL				
B) Behavior <input checked="" type="checkbox"/> WNL		Speech <input checked="" type="checkbox"/> WNL		
C) Mood <input checked="" type="checkbox"/> WNL		Sleep <input checked="" type="checkbox"/> WNL		Appetite <input checked="" type="checkbox"/> WNL
D) Cognition:				<i>full range</i>
1) Fund of Information <input checked="" type="checkbox"/> WNL				
2) Intellectual Functions <input checked="" type="checkbox"/> WNL				
3) Organization of Thought <input checked="" type="checkbox"/> WNL				
4) Association of Thought <input checked="" type="checkbox"/> WNL				
5) Reality Contact <input checked="" type="checkbox"/> WNL				
6) Thought Quality <input checked="" type="checkbox"/> WNL				
E) Perception Disturbances (Hallucinations) <input checked="" type="checkbox"/> None				
F) Thought Content (Delusions) <input checked="" type="checkbox"/> None <i>so far he uses word "cop" to mean informant. He believes most of Mo are informants</i>				
G) Sensorium (Orientation, Memory, Attention, Concentration) <input checked="" type="checkbox"/> WNL				
H) Insight & Judgment <input checked="" type="checkbox"/> WNL				
I) Interview Attitude <input checked="" type="checkbox"/> WNL				
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.				
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.				

V. DSM IV Numerical - Transferring / Discharge / Provisional (Discussion, diagnostic certainty.)		
Axis I	300.0	Anxiety D/O NOS (Provisional)
	297.1	R/O Delusional Disorder, Persecutory Type
Axis II	301.0	R/O Paranoid Personality Disorder
Axis III	<i>Back and hip problems 20 to injury; walks assisted with cane</i>	
Axis IV	(current) <i>transfer to HOSP; perceived lack of medical services</i>	
Axis V	GAF = <u>65</u> (Discuss basis.) <i>clinical interview</i>	
Discussion and Diagnostic Certainty: <i>needs further diagnostic clarification</i>		
<input type="checkbox"/> Dual Diagnosis <i>no</i>		

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 Page: 3 of 5 [3/28/96] Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  <i>C3m5</i>  Inpatient <input checked="" type="checkbox"/> Outpatient	Last Name: <i>Brown</i> First Name: <i>Gregory</i> MI:  CDC # <i>J-82244</i> DOB <i>8-26-65</i>
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State of California, Department of Corrections -- Institution: HDS.

Prior Page Number: \_\_\_\_\_

## CHRONOLOGICAL INTERDISCIPLINARY PROGRESS NOTES: All Staff, Clinicians, Treatment Teams.

Date/Time:	Use Name & Title Stamp.
1/10/01	Chart N/A
2:30	Serving 56 to life. It adamant that he doesn't want meds.
	Past hx - Denies hospitalizations. States he never took psych meds. Denies family hx.
	Past Med hx - Avascular Necrosis of Both; Rt leg injury; takes Motrin
	Allergies NKDA
	MSE: Pleasant & cooperative. <sup>Appropriate Behavior</sup>
	At one pt appeared to be responding to internal stimuli when questioned re: sentence
	Speech: Mood "in prison but I'm ok. I expect appropriate
	Logical TC denies SI/HI
	Violent hts (+) Vit (+) Internal
	Family (+) Denies hts re: demons
	Asoxy. I/T limited impulse control
	(AD) Psychosis NOS adequate
	R/Schizophrenia, CPT
	- Pt encouraged at length to try meds but refuses. It does not appear to meet criteria to forcibly medicate
	It agreed to request psych Tt demons
	Become bothersome or if SI/HI do last thk

MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES	LEVEL OF CARE	Last Name:	First Name:	MI:
MH-3 [3/21/96]	Inpatient	BROWN	Gregory	
Confidential Client/Patient Information See W & I Code, Section 5328	Outpatient	J-82241		
		CDC #	DOB	/ /

State of California, Department of Corrections -- Institution: HDSPrior Page Number:       CHRONOLOGICAL INTERDISCIPLINARY PROGRESS NOTES: All Staff/Clinicians, Treatment Teams.

Date/Time:	Use Name & Title Stamp.
1/10/01 1230	<p>PT is 35 y/o BO who states he put in a request to see a psychiatrist ~ 1 month ago b/c he at that time felt there were demons trying to bother him &amp; that they wd wake him up in the middle of the night. PT states he was able to "Rid the demons out". PT denies SI/plan/intent. PT denies HI/Violent Htts. PT states that if demons began to bother him more he wd ask for help. PT denies current Att, states they're gone away mostly since he now has a single cell. PT reports he occasionally experiences sensation that he sees "Shadows" or a grey ghost only @ night. PT reports &amp; sleep ~ 3-4/hr "energy during day" "strong". PT states he has learned to just "not give a damn" as opposed to feeling depressed. PT reports &amp; sense of hope b/c he's</p>

<b>MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES</b>  MH 3 [3/21/96]  Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <u>BROWN</u> First Name: <u>GREGORY</u> MI: <u>      </u>  <u>5-82241</u>  CDC # <u>      </u> DOB <u>  /  /  </u>
	Page # <u>107</u>	

State of California, Department of Corrections - High Desert State Prison				Prior Page Number:	
CHRONOLOGICAL INTERDISCIPLINARY PROGRESS NOTES:				All Staff, Clinicians, Treatment Teams	
Date/Time: 11-20-02 0730					
Reason for Contact: POST SUICIDE WATCH/PRECAUTION FOLLOWUP					
Day <input checked="" type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5					
Level of Orientation: <input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Place <input checked="" type="checkbox"/> Time					
Eye Contact: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Fair <input type="checkbox"/> Poor					
General Appearance <input type="checkbox"/> Disheveled <input checked="" type="checkbox"/> Groomed <input type="checkbox"/> Poor Hygiene					
Sleep: <input checked="" type="checkbox"/> WNL <input type="checkbox"/> Appetite: <input checked="" type="checkbox"/> WNL					
Facial Expression: <input type="checkbox"/> Angry <input type="checkbox"/> Blunted <input type="checkbox"/> Frightened <input checked="" type="checkbox"/> WNL					
<input type="checkbox"/> Flat <input type="checkbox"/> Happy <input type="checkbox"/> Withdrawn					
Body Behavior: <input type="checkbox"/> Withdrawn <input type="checkbox"/> Overactive <input type="checkbox"/> Restless <input checked="" type="checkbox"/> WNL					
<input type="checkbox"/> Stiff <input type="checkbox"/> Tremor					
Speech: <input type="checkbox"/> Clear <input type="checkbox"/> Excessive <input type="checkbox"/> Incoherent <input type="checkbox"/> Mute <input type="checkbox"/> Rapid					
<input type="checkbox"/> Slow <input type="checkbox"/> Stammer <input type="checkbox"/> Slurred/Mumbled <input type="checkbox"/> Understandable <input checked="" type="checkbox"/> WNL					
Mood: <input type="checkbox"/> Anxious <input type="checkbox"/> Cheerful <input type="checkbox"/> Congruent <input type="checkbox"/> Depressed <input checked="" type="checkbox"/> WNL					
<input type="checkbox"/> Euphoric <input type="checkbox"/> Silly <input type="checkbox"/> Unconcerned <input type="checkbox"/> Dysphoric					
Presenting Attitude: <input type="checkbox"/> Argumentative <input type="checkbox"/> Cooperative <input type="checkbox"/> Demanding <input type="checkbox"/> Evasive <input type="checkbox"/> Guarded					
<input type="checkbox"/> Helpless <input type="checkbox"/> Hostile <input type="checkbox"/> Intimidating <input type="checkbox"/> Manipulative <input checked="" type="checkbox"/> WNL					
<input type="checkbox"/> Passive <input type="checkbox"/> Resistant <input type="checkbox"/> Suspicious <input type="checkbox"/> Threatening					
Perception Disturbances <input checked="" type="checkbox"/> None					
Thought Content (Delusions) <input checked="" type="checkbox"/> None					
Current Suicidality <input checked="" type="checkbox"/> None noted or stated.					
Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.					
Psychotropic Medications? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
Custody Rounds: <input checked="" type="checkbox"/> Continue Hourly <input type="checkbox"/> Every 2 Hours <input type="checkbox"/> Every 4 Hours					
Custody Input: I/M calm and cooperative					
Comments: I/M reports no S/I or H/I. Has been resting in cell appropriately. Check tomorrow.					
<input type="checkbox"/> Next case manager contact to be on or before: 1 day GAF: 60					
Clinician Name/Title: F. Upshaw					
Signature: [Signature]					
MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES Post SW/P FU MH 3 (7/26/99) Confidential Client/Patient Information See W&I Code, Section 5328		LEVEL OF CARE  Inpatient  Outpatient		Last Name: Brown D-6 CDC# J82241	
				First Name: 123 DOB: / /	

250

State of California, Department of Corrections - High Desert State Prison		Prior Page Number:	
<b>CHRONOLOGICAL INTERDISCIPLINARY PROGRESS NOTES:</b>		All Staff, Clinicians, Treatment Teams	
Date/Time: <u>11/22/02</u>			
Reason for Contact: <b>POST SUICIDE WATCH/PRECAUTION FOLLOWUP</b>			
Day <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5			
Level of Orientation: <input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Place <input checked="" type="checkbox"/> Time			
Eye Contact: <input type="checkbox"/> Good <input checked="" type="checkbox"/> Fair <input type="checkbox"/> Poor			
General Appearance <input type="checkbox"/> Disheveled <input type="checkbox"/> Groomed <input type="checkbox"/> Poor Hygiene			
Sleep: <input checked="" type="checkbox"/> WNL <input type="checkbox"/> Appetite: <input checked="" type="checkbox"/> WNL			
Facial Expression: <input type="checkbox"/> Angry <input type="checkbox"/> Blunted <input type="checkbox"/> Frightened <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Flat <input type="checkbox"/> Happy <input type="checkbox"/> Withdrawn			
Body Behavior: <input type="checkbox"/> Withdrawn <input type="checkbox"/> Overactive <input type="checkbox"/> Restless <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Stiff <input type="checkbox"/> Tremor			
Speech: <input type="checkbox"/> Clear <input type="checkbox"/> Excessive <input type="checkbox"/> Incoherent <input type="checkbox"/> Mute <input type="checkbox"/> Rapid			
<input type="checkbox"/> Slow <input type="checkbox"/> Stammer <input type="checkbox"/> Slurred/Mumbled <input type="checkbox"/> Understandable <input checked="" type="checkbox"/> WNL			
Mood: <input type="checkbox"/> Anxious <input type="checkbox"/> Cheerful <input checked="" type="checkbox"/> Congruent <input type="checkbox"/> Depressed <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Euphoric <input type="checkbox"/> Silly <input type="checkbox"/> Unconcerned <input type="checkbox"/> Dysphoric			
Presenting Attitude: <input type="checkbox"/> Argumentative <input checked="" type="checkbox"/> Cooperative <input type="checkbox"/> Demanding <input type="checkbox"/> Evasive <input type="checkbox"/> Guarded			
<input type="checkbox"/> Helpless <input type="checkbox"/> Hostile <input type="checkbox"/> Intimidating <input type="checkbox"/> Manipulative <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Passive <input type="checkbox"/> Resistant <input type="checkbox"/> Suspicious <input type="checkbox"/> Threatening			
Perception Disturbances <input checked="" type="checkbox"/> None			
Thought Content (Delusions) <input checked="" type="checkbox"/> None			
Current Suicidality <input checked="" type="checkbox"/> None noted or stated.			
Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.			
Psychotropic Medications? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Custody Rounds: <input type="checkbox"/> Continue Hourly <input type="checkbox"/> Every 2 Hours <input type="checkbox"/> Every 4 Hours			
<u>Start 11/22/02</u>			
Custody Input: <u>problems</u>			
Comments: <u>I'm present as quiet oriented denies SVT</u> <u>denies problems. Has been acting</u> <u>better. No specific issues nor complaints</u>			
<input type="checkbox"/> Next case manager contact to be on or before: <u>11/20/02</u> GAF: <u>55</u> Clinician Name/Title: <u>G. Watson</u> Signature: <u>[Signature]</u>			
<b>MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES</b> Post SW/P FU MH 3 (7/26/99) Confidential Client/Patient Information See W&I Code, Section 5328	<b>LEVEL OF CARE</b>  <u>13</u>  Inpatient  <u>Outpatient</u>	Last Name: <u>BROWN</u> First Name: <u>GREGORY</u> <u>76-123</u> CDC# <u>182241</u> DOB <u>11</u>	

<b>State of California, Department of Corrections - High Desert State Prison</b>		<b>Prior Page Number:</b>	
<b>CHRONOLOGICAL INTERDISCIPLINARY PROGRESS NOTES:</b>		<b>All Staff, Clinicians, Treatment Teams</b>	
Date/Time: <u>11/23/02</u>			
Reason for Contact: <b>POST SUICIDE WATCH/PRECAUTION FOLLOWUP</b>			
Day <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input type="checkbox"/> 5			
Level of Orientation: <input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Place <input checked="" type="checkbox"/> Time			
Eye Contact: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor			
General Appearance <input type="checkbox"/> Disheveled <input checked="" type="checkbox"/> Groomed <input type="checkbox"/> Poor Hygiene			
Sleep: <u>Poor due to discomfort</u> <input type="checkbox"/> WNL <input type="checkbox"/> Appetite: <input checked="" type="checkbox"/> WNL			
Facial Expression: <input type="checkbox"/> Angry <input type="checkbox"/> Blunted <input type="checkbox"/> Frightened <u>pained</u> <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Flat <input type="checkbox"/> Happy <input type="checkbox"/> Withdrawn <u>worried</u>			
Body Behavior: <input type="checkbox"/> Withdrawn <input type="checkbox"/> Overactive <input type="checkbox"/> Restless <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Stiff <input type="checkbox"/> Tremor			
Speech: <input type="checkbox"/> Clear <input type="checkbox"/> Excessive <input type="checkbox"/> Incoherent <input type="checkbox"/> Mute <input type="checkbox"/> Rapid			
<input type="checkbox"/> Slow <input type="checkbox"/> Stammer <input type="checkbox"/> Slurred/Mumbled <input checked="" type="checkbox"/> Understandable <input checked="" type="checkbox"/> WNL			
Mood: <input type="checkbox"/> Anxious <input type="checkbox"/> Cheerful <input checked="" type="checkbox"/> Congruent <input type="checkbox"/> Depressed <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Euphoric <input type="checkbox"/> Silly <input type="checkbox"/> Unconcerned <input type="checkbox"/> Dysphoric			
Presenting Attitude: <input type="checkbox"/> Argumentative <input checked="" type="checkbox"/> Cooperative <input type="checkbox"/> Demanding <input type="checkbox"/> Evasive <input type="checkbox"/> Guarded			
<input type="checkbox"/> Helpless <input type="checkbox"/> Hostile <input type="checkbox"/> Intimidating <input type="checkbox"/> Manipulative <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Passive <input type="checkbox"/> Resistant <input type="checkbox"/> Suspicious <input type="checkbox"/> Threatening			
Perception Disturbances <input checked="" type="checkbox"/> None			
Thought Content (Delusions) <input checked="" type="checkbox"/> None			
Current Suicidality <input checked="" type="checkbox"/> None noted or stated.			
Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.			
Psychotropic Medications? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Custody Rounds: <input type="checkbox"/> Continue Hourly <input type="checkbox"/> Every 2 Hours <input checked="" type="checkbox"/> Every 4 Hours			
<u>continue</u>			
Custody Input: <u>A problem;</u>			
Comments: <u>I am present as uncomfortable due to report of physical discomfort. I am denies S/I</u> <u>Requests inquiring as to personal property. (informed no)</u> <u>I am is somewhat stressed due to physical voice</u> <u>"depressed" over pain.</u>			
<input type="checkbox"/> Next case manager contact to be on or before: <u>11/24/02</u> GAF: <u>55</u>			
Clinician Name/Title: <u>GOBROADHIC</u>			
Signature: <u>GOBROADHIC</u>			
<b>MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES</b> Post SW/P FU MH 3 (7/26/99) Confidential Client/Patient Information See W&I Code, Section 5328	<b>LEVEL OF CARE</b>  <u>C</u>  Inpatient  Outpatient	<b>Last Name:</b> <u>Brown</u>  CDC# <u>J B 2241</u>	<b>First Name:</b>  DOB <u>1/1</u>

State of California, Department of Corrections - High Desert State Prison		Prior Page Number:	
<b>CHRONOLOGICAL INTERDISCIPLINARY PROGRESS NOTES:</b>		All Staff, Clinicians, Treatment Teams	
Date/Time: 11/24/02 0830			
Reason for Contact: POST SUICIDE WATCH/PRECAUTION FOLLOWUP			
Day <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input checked="" type="checkbox"/> 5			
Level of Orientation: <input checked="" type="checkbox"/> Person <input checked="" type="checkbox"/> Place <input checked="" type="checkbox"/> Time			
Eye Contact: <input checked="" type="checkbox"/> Good <input type="checkbox"/> Fair <input type="checkbox"/> Poor			
General Appearance <input type="checkbox"/> Disheveled <input checked="" type="checkbox"/> Groomed <input type="checkbox"/> Poor Hygiene			
Sleep: <u>Poor</u> <input checked="" type="checkbox"/> WNL <input type="checkbox"/> Appetite: <input checked="" type="checkbox"/> WNL			
Facial Expression: <input type="checkbox"/> Angry <input type="checkbox"/> Blunted <input type="checkbox"/> Frightened <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Flat <input type="checkbox"/> Happy <input type="checkbox"/> Withdrawn			
Body Behavior: <input type="checkbox"/> Withdrawn <input type="checkbox"/> Overactive <input type="checkbox"/> Restless <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Stiff <input type="checkbox"/> Tremor			
Speech: <input type="checkbox"/> Clear <input type="checkbox"/> Excessive <input type="checkbox"/> Incoherent <input type="checkbox"/> Mute <input type="checkbox"/> Rapid			
<input type="checkbox"/> Slow <input type="checkbox"/> Stammer <input type="checkbox"/> Slurred/Mumbled <input checked="" type="checkbox"/> Understandable <input checked="" type="checkbox"/> WNL			
Mood: <input type="checkbox"/> Anxious <input type="checkbox"/> Cheerful <input type="checkbox"/> Congruent <input checked="" type="checkbox"/> Depressed <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Euphoric <input type="checkbox"/> Silly <input type="checkbox"/> Unconcerned <input checked="" type="checkbox"/> Dysphoric <u>Some</u>			
Presenting Attitude: <input type="checkbox"/> Argumentative <input checked="" type="checkbox"/> Cooperative <input type="checkbox"/> Demanding <input type="checkbox"/> Evasive <input type="checkbox"/> Guarded			
<input type="checkbox"/> Helpless <input type="checkbox"/> Hostile <input type="checkbox"/> Intimidating <input type="checkbox"/> Manipulative <input checked="" type="checkbox"/> WNL			
<input type="checkbox"/> Passive <input type="checkbox"/> Resistant <input type="checkbox"/> Suspicious <input type="checkbox"/> Threatening			
Perception Disturbances <input checked="" type="checkbox"/> None			
Thought Content (Delusions) <input checked="" type="checkbox"/> None			
Current Suicidality <input checked="" type="checkbox"/> None noted or stated.			
Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.			
Psychotropic Medications? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Custody Rounds: <input type="checkbox"/> Continue Hourly <input type="checkbox"/> Every 2 Hours <input type="checkbox"/> Every 4 Hours			
<u>D/C LMR</u>			
Custody Input: <u>8 problems will transfer</u>			
Comments: <u>Trn transfer to D7 on 11/23/02.</u> <u>Still feels he is making an adjustment. Feels</u> <u>SI; ignores concern about progress.</u> <u>Reports distress assoc i physical discomfort</u>			
<input type="checkbox"/> Next case manager contact to be on or before: <u>                    </u>		GAF: <u>60</u>	
Clinician Name/Title: <u>GD Smith, LSW</u>			
Signature: <u>[Signature]</u>			
<b>MENTAL HEALTH INTERDISCIPLINARY PROGRESS NOTES</b> Post SW/P FU MH 3 (7/26/99) Confidential Client/Patient Information See W&I Code, Section 5328	LEVEL OF CARE	Last Name:	First Name:
	Inpatient	Brown	
	Outpatient	CDC# <u>582241</u>	DOB <u>  /  /  </u>

## Mental Health Treatment Plan Part One:

Page 2 of 2

IV. DSM IV Numerical ☒ Last MSE 11/17/05 Last TP 9/20/03 MH 1 ☐ Last MH 4 ☐ 12/30/02

Axis I

3160

Depressive 8/10/2005

Axis II

301.83

Borderline Personality 8/10

Axis III

Varying Meds; Hip Replacement Surgery

Axis IV

(current)

Incarceration

Axis V

GAF = 65 Describe basis.

## V. Problem / Symptom List

#1

Depression

#2

#3

## VI. Inmate's Strength and Weakness, Goals

Inmate's Treatment Goals, ☐ MH 6 Input

- Treatment non compliance

Treatment Readiness: ☐ Amenable ☐ Motivated ☒ ResistantVII. Discharge Plan To: ☒ GP ☐ CCCMS ☐ EOP ☐ MHCB ☐ DMH

D/C Chrono as of 2/8/04 - Lys med free

Signature(s)

R. Dahl, Ph.D.

Psychologist

High Desert State Prison

MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]

Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328

LEVEL OF  
CARE

CMS

Inpatient

Outpatient

Last Name:

First Name:

MI:

Brown Gregory

CDC#

18-2241

DOB

8-26-65

DATE TIME

1/21/03

PSYCHIATRIC PROGRESS NOTE

Inmate: BROWN, GREGORY J82241


S: Mr. Brown was seen as a CTC follow up. He had been in CTC for a suicide attempt. Mr. Brown states that he was feeling like hurting himself. He no longer feels that way. He is in considerable pain; walks with a walker, has necrosing hips bilaterally and is awaiting hip replacements. Patient also states he is under stress from some legal cases. Patient describes feeling confused, sleepy, and having headaches, which I expect are attributed to his Paxil. I discussed with him the effects of reducing Paxil and patient stated that he would like to be off the medication. I explained to him that he needs all his wits about him to deal with his legal case and when I explained to him the symptoms and so on, the patient said yes, that was exactly what he felt and he would like to be off the medication. Patient was told that if he is having any difficulties to put him in a request and I would see him. Patient is not depressed, not suicidal, and has no major mental disorder.

O:

A:

P:

E:

  
\_\_\_\_\_, MD  
S. SALENGER, MD  
SS:cj

State of California, Department of Corrections: N / C / S Region, Service Area = , Institution =

## MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number

Page 1 of 2

☐ Original ☐ Update ☐ Rejustification☐ CCCMS Annual Case Review

## I. General Information:

Arrival Date This Treatment Setting: \_\_\_/\_\_\_/\_\_\_

☒ CCCMS ☐ EOP ☐ MHC/Infirmary☐ PSU - ☐ week observation.

Anticipated Date of Transfer to GP: \_\_\_/\_\_\_/\_\_\_

Custody Level: I / II / III / IV / AdS / SHU

By: ☐ Team ☒ Individual Clinician☐ MH 6 ☐ C File ☐ Health Record☒ Unit Health Record ☐ MH 1☐ MH 4 ☒ Prior MH 2/22/02

Today Date

9/8/03

Next Up Date

12/8/03

## II. Print Treatment Team Members

Position

Telephone &amp; Extension

R. Dahl, Ph.D.

Psychologist

High Desert State Prison

PHD

6790

## III. Present Mental Status Date 9/2/03 By

R. Dahl, Ph.D.

Title

Psychologist

High Desert State Prison

PHD

A) Appearance ☒ WNLB) Behavior ☒ WNLSpeech ☐ WNL

Slow

C) Mood ☐ WNLSleep ☒ WNLAppetite ☒ WNLAffect ☐ WNL

D) Cognition:

1) Fund of Information ☒ WNL2) Intellectual Functions ☒ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☐ WNL5) Reality Contact ☐ WNL6) Thought Quality ☒ WNLE) Perception Disturbances (Hallucinations) ☒ NoneF) Thought Content (Delusions) ☒ NoneG) Sensorium (Orientation, Memory, Attention, Concentration) ☒ WNLH) Insight & Judgment ☐ WNLI) Interview Attitude ☒ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☒ None noted or stated.

Signature(s)

/R. Dahl, Ph.D.

Psychologist

High Desert State Prison

MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]

Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328

LEVEL OF  
CARE

C/M

Inpatient

Outpatient

Last Name:

First Name:

MI:

BROWN, Gregory

CDC #

J8-2241

DOB

8/26/65

256

## Mental Health Treatment Plan Part One:

Page 2 of 2

IV. DSM IV Numerical ☐ Last MSE     ☐ Last TP     MH 1 ☐     Last MH 4 ☐    

Axis I

311.0

Depressive Disorder

Axis II

301.83

Borderline Pers. Dis.

Axis III

Hip replacement surgery imminent

Axis IV

(current)

Incarceration

Axis V

GAF = 55 Describe basis.

## V. Problem / Symptom List

#1

Depression

#2

#3

## VI. Inmate's Strength and Weakness, Goals

Inmate's Treatment Goals, ☐ MH 6 Input

- Borderline Ex

- Depressive

Treatment Readiness: ☐ Amenable ☐ Motivated ☐ ResistantVII. Discharge Plan To: ☐ GP ☐ CCCMS ☐ EOP ☐ MHCB ☐ DMH

Signature(s)

R. Dahl, Ph.D.

Psychologist

High Desert State Prison

MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]

Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328

LEVEL OF  
CARE

345

Inpatient

Outpatient

Last Name:

First Name:

MI:

BROWN, LY

CDC #

J82241

DOB

52665

257

State of California, Department of Corrections: NE/S Region, Service Area = B, Institution ADSP**MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number** Page 1 of 2☐ Original ☒ Update ☐ Rejustification ☐ CCCMS Annual Case Review

<b>I. General Information:</b>		By: <input checked="" type="checkbox"/> Team <input type="checkbox"/> Individual Clinician	Today Date
Arrival Date This Treatment Setting: <u>6/19/03</u>		<input type="checkbox"/> MH 6 <input type="checkbox"/> C File <input type="checkbox"/> Health Record	<u>11/18/03</u>
<input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHC/Infirmary		<input checked="" type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1	Next Up Date
<input type="checkbox"/> PSU -- <input type="checkbox"/> week observation.		<input type="checkbox"/> MH 4 <input type="checkbox"/> Prior MH 2 <u>9/30/03</u>	<u>2/18/03</u>
Anticipated Date of Transfer to GP: <u>/ /</u>			
Custody Level: I / II / III / IV / <u>Ad</u> / SHU			

II. Print Treatment Team Members	Position	Telephone & Extension
<u>R. Dahl, Ph.D.</u>	<u>PhD</u>	<u>6790</u>
<u>L. Chaffin, Ph.D.</u>	<u>PhD</u>	<u>6795</u>
<u>W. E. Kim, MD</u>	<u>MD</u>	

<b>III. Present Mental Status</b> Date <u>11/17/03</u> By <u>R. Dahl, Ph.D.</u> Title <u>PhD</u>	
A) Appearance <input checked="" type="checkbox"/> WNL	<u>hobbled - trouble sitting/walking</u>
B) Behavior <input type="checkbox"/> WNL	<u>Demanding</u> Speech <input type="checkbox"/> WNL
C) Mood <input type="checkbox"/> WNL	<u>Agitated</u> Sleep <input type="checkbox"/> WNL Appetite <input type="checkbox"/> WNL Affect <input type="checkbox"/> WNL <u>Depressed</u>
D) Cognition:	
1) Fund of Information <input type="checkbox"/> WNL	
2) Intellectual Functions <input type="checkbox"/> WNL	
3) Organization of Thought <input type="checkbox"/> WNL	
4) Association of Thought <input type="checkbox"/> WNL	
5) Reality Contact <input type="checkbox"/> WNL	
6) Thought Quality <input type="checkbox"/> WNL	
E) Perception Disturbances (Hallucinations) <input type="checkbox"/> None	
F) Thought Content (Delusions) <input type="checkbox"/> None <u>Paranoid ideation re: MH &amp; CO's</u>	
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL <u>Distracted</u>	
H) Insight & Judgment <input type="checkbox"/> WNL	
I) Interview Attitude <input type="checkbox"/> WNL <u>Agitated</u>	
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.	
K) Current Violence Risk <input type="checkbox"/> None noted or stated.	

Signature(s) R. Dahl, Ph.D.  
 Psychologist  
 High Desert State Prison

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b> <u>CMS</u> Inpatient Outpatient	Last Name: <u>Brown</u> First Name: <u>Gregory</u> MI: <u></u> CDC # <u>2241</u> DOB <u>8/26/65</u>
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State of California, Department of Corrections: N C / S Region, Service Area = B, Institution = ADSP**MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number** Page 1 of 2☐ Original ☒ Update ☐ Rejustification ☐ CCCMS Annual Case Review**I. General Information:**Arrival Date This Treatment Setting: 6/19/03☐ CCCMS ☐ EOP ☐ MHC/Infirmary☐ PSU - ☐ \_\_\_\_\_ week observation.Anticipated Date of Transfer to GP: / /Custody Level: I / II / III / IV (AdS) SHUBy: ☒ Team ☐ Individual Clinician☐ MH 6 ☐ C File ☐ Health Record☒ Unit Health Record ☐ MH 1☐ MH 4 ☒ Prior MH 2 6/18/03

Today Date

2/4/04

Next Up Date

- / - / -**II. Print Treatment Team Members****Position****Telephone & Extension**R. Dahl, Ph.D.  
R. Ridge, Ph.D.  
E. Stokols, Ph.D.Ph.D.  
Ph.D.  
CCI6790  
6786  
6812**III. Present Mental Status**Date 2/2/04By T. DahlTitle Ph.D.A) Appearance ☒ WNLB) Behavior ☐ WNLSpeech ☒ WNLC) Mood ☐ WNLSleep ☒ WNLAppetite ☒ WNLAffect ☒ WNL

D) Cognition:

1) Fund of Information ☒ WNL2) Intellectual Functions ☒ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☒ WNL5) Reality Contact ☒ WNL6) Thought Quality ☒ WNLE) Perception Disturbances (Hallucinations) ☒ NoneF) Thought Content (Delusions) ☒ NoneG) Sensorium (Orientation, Memory, Attention, Concentration) ☒ WNLH) Insight & Judgment ☒ WNLI) Interview Attitude ☐ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☒ None noted or stated.

Signature(s)

R. Dahl, Ph.D.PsychologistHigh Desert State Prison**MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]**Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths

Part Two: Problem Pages -- Results

Use Insert-a-Page of MH 1

Confidential Client/Patient Information  
See W & I Code, Section 5328**LEVEL OF  
CARE**LP  
Inpatient

Outpatient

Last Name:

First Name:

MI:

Braun Gregory

CDCR

182241

DOB

8/6/65

259

## Mental Health Treatment Plan Part One:

Page 2 of 2

IV. DSM IV Numerical ☒ Last MSE 2/20/04 ☒ Last TP 1/18/03 MH 1 ☐ Last MH 4 ☒ 2/23/04

Axis I	311	Depressive D/O
	1/9/04	No Axis I Dx
Axis II	301.83	Borderline Personality D/O
Axis III		Uses wheel chair. Bad hips
Axis IV		(current) Incarceration
Axis V		GAF = 70 Describe basis.

## V. Problem / Symptom List

#1 Depressive thoughts

#2

#3

## VI. Inmate's Strength and Weakness, Goals

Inmate's Treatment Goals, ☐ MH 6 Input

+ Verbal

- Dysphonic by Dx

Treatment Readiness: ☐ Amenable ☐ Motivated ☒ ResistantVII. Discharge Plan To: ☒ GP ☐ CCCMS ☐ EOP ☐ MHCB ☐ DMHReturn to LTP (YR 5x)  
Med. Release 2/9/04

Signature(s)

R. Dahl, Ph.D.

Psychologist

High Desert State Prison

MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]

Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328

LEVEL OF  
CAREReturn to LTP  
Inpatient

Outpatient

Last Name:

First Name:

MI:

Return Brown Gregory

CDC #

J-82241

DOB

8/6/65

260

State of California, Department of Corrections, N/C / S Region, Service Area = B Institution, FDSP

TREATMENT PLAN PART TWO: PROBLEM → #

pg.

Today Date: 2/9/04☐ Initial Treatment Plan☐ Update because☐ Re-justify,

weeks

Prob. #	Describe Problem:	Possible Completion	Date
1	Non compliant w/	Next Review	Date
	Target Behavior(s): <u>PH &amp; Lyr 5x</u> <u>Med. Del.</u>		
	Target Objective(s):		
	<u>D/C to H/P 2/9/04</u>		<u>2/9/04</u>
Date	Intervention (s) & Staff Assigned.	Frequency and Duration.	Results.
<u>2/9/04</u>	<u>Return to</u>	<u>2/9/04</u>	
	<u>PH - Lyr</u>		
	<u>Med. Del.</u>		
	<u>No follow-up</u>		
Signature(s) <u>R. Dahl, Ph.D.</u>			

R. Dahl, Ph.D.

Psychologist

High Desert State Prison

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b> <u>LP</u> Inpatient Outpatient <u>(2/9/04)</u>	Last Name: <u>Brown</u> First Name: <u>Gregory</u> MI: <u>9</u> CDC # <u>J-82241</u> DOB <u>7665</u>
	361	

**DATE TIME**  
1/13/04 0840

**PSYCHIATRIC PROGRESS NOTE**

Inmate: BROWN, GREGORY J82241

- S:** Mr. Brown is complaining of anxiety and difficulty sleeping. He has put in a 602 because he does not feel that he is getting sufficient mental health needs. However, patient has been told that we would be happy to give him some therapy, have him see the psychologist, and all he has to do is request that, to help him deal with his stress. On the other hand he has no Axis I Diagnosis, does not need sleeping medication or antidepressant medication at this time.
- O:** MS does not indicate any severe depression.
- A:**
- P:** Patient is on a clock to return to GP.

\_\_\_\_\_, MD  
S. SALENGER, MD  
SS:cj

RECEIVED HDSP  
'04 JAN 26 PM 1 05

262  
T

State of California, Department of Corrections: N C/S Region, Service Area = B, Institution = HDSP

MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number		Page 1 of 2
<input type="checkbox"/> Original <input checked="" type="checkbox"/> Update <input type="checkbox"/> Rejustification <input type="checkbox"/> CCCMS Annual Case Review		
<b>I. General Information:</b> Arrival Date This Treatment Setting: <u>6/19/03</u> <span style="float: right;">04 AUG 26</span> <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHC/Infirmary <input type="checkbox"/> Team <input checked="" type="checkbox"/> Individual Clinician <input type="checkbox"/> PSU -- <input type="checkbox"/> _____ week observation. <input checked="" type="checkbox"/> MH 6 <input type="checkbox"/> C File <input type="checkbox"/> Health Record Anticipated Date of Transfer to GP:   /   / <input checked="" type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1 Custody Level: I / II / III / IV / <u>(AdS)</u> SHU <input type="checkbox"/> MH 4 <input type="checkbox"/> Prior MH 2   /   /   /		Today Date <u>8/25/04</u> Next Up Date <u>8/25/04</u>
<b>II. Print Treatment Team Members</b>		
<b>Position</b> <u>E. Jenesky</u>     	<b>Telephone &amp; Extension</b> <u>PhD</u>     	 <u>6779</u>     
<b>III. Present Mental Status</b> Date <u>8/25/04</u> By <u>E Jenesky</u> Title <u>PhD</u>		
A) Appearance <input type="checkbox"/> WNL		
B) Behavior <input type="checkbox"/> WNL		Speech <input type="checkbox"/> WNL
C) Mood <input type="checkbox"/> WNL	Sleep <input type="checkbox"/> WNL	Appetite <input type="checkbox"/> WNL      Affect <input type="checkbox"/> WNL
D) Cognition: 1) Fund of Information <input type="checkbox"/> WNL 2) Intellectual Functions <input type="checkbox"/> WNL 3) Organization of Thought <input type="checkbox"/> WNL 4) Association of Thought <input type="checkbox"/> WNL 5) Reality Contact <input type="checkbox"/> WNL 6) Thought Quality <input type="checkbox"/> WNL		
E) Perception Disturbances (Hallucinations) <input type="checkbox"/> None		
F) Thought Content (Delusions) <input type="checkbox"/> None		
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL		
H) Insight & Judgment <input type="checkbox"/> WNL		
I) Interview Attitude <input type="checkbox"/> WNL		
J) Current Suicidality <input type="checkbox"/> None noted or stated.		
K) Current Violence Risk <input type="checkbox"/> None noted or stated.		
Signature(s) <u>E Jenesky</u>		

Refused  
INTT

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> <b>MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  <div style="font-size: 2em; text-align: center;">C<sup>3</sup></div> Inpatient  Outpatient	Last Name:      First Name:      MI:  <div style="font-size: 1.5em; text-align: center;">Brown, Gregory</div> CDC # <u>J-82241</u> DOB <u>8/26/65</u>
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Mental Health Treatment Plan Part One:		Page 2 of 2
<div style="text-align: right;">RECEIVED HDSP</div> <div style="text-align: center;">04 AUG 26 PM 1 58</div>		
IV. DSM IV Numerical <input type="checkbox"/> Last MSE <u>    </u> <input type="checkbox"/> Last TP <u>    </u> MH 1 <input type="checkbox"/> <u>    </u> Last MH 4 <input type="checkbox"/> <u>    </u>		
Axis I	311	Dep D/O NOS
Axis II	799.9	
Axis III		none
Axis IV		(current) Level III AdSey
Axis V		GAF = 65 Describe basis.
V. Problem / Symptom List		
#1	Refuses IOTT	
#2		
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input type="checkbox"/> GP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
Signature(s) <i>E. J. [Signature]</i>		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  C3  Inpatient  Outpatient	Last Name:      First Name:      MI:  <div style="font-size: 1.2em;">Brown Gregory</div>  CDC # <u>J-82241</u> DOB <u>8/26/65</u>
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RECEIVED HDSP

'04 SEP 9 AM 9:31

State of California, Department of Corrections: (N) C/S Region, Service Area = B, Institution = HDSP

## MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number

Page 1 of 2

☐ Original ☒ Update ☐ Rejustification ☐ CCCMS Annual Case Review

## I. General Information:

Arrival Date This Treatment Setting: 6/19/03

☐ CCCMS ☐ EOP ☐ MHC/Infirmary☐ PSU -- ☐ week observation.

Anticipated Date of Transfer to GP: / /

Custody Level: I / II / III (IV / AdS) SHU

By: ☒ Team ☐ Individual Clinician☐ MH 6 ☐ C File ☒ Health Record☐ Unit Health Record ☐ MH 1☐ MH 4 ☒ Prior MH 2 2/4/04

Today Date

9/8/04

Next Up Date

12/8/04

## II. Print Treatment Team Members

## Position

## Telephone &amp; Extension

Ed Jenesky

Ph.D.

6790

T Nolan

PhD

6788

Baines

PT

6744

III. Present Mental Status Date 9/8/04 By Dr. Jenesky Title PhD

A) Appearance ☒ WNLB) Behavior ☒ WNLSpeech ☒ WNLC) Mood ☐ WNL

Dull

Sleep ☒ WNLAppetite ☒ WNLAffect ☐ WNL

Flat

## D) Cognition:

1) Fund of Information ☒ WNL2) Intellectual Functions ☒ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☒ WNL5) Reality Contact ☒ WNL6) Thought Quality ☒ WNLE) Perception Disturbances (Hallucinations) ☒ NoneF) Thought Content (Delusions) ☒ NoneG) Sensorium (Orientation, Memory, Attention, Concentration) ☒ WNLH) Insight & Judgment ☒ WNLI) Interview Attitude ☒ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☒ None noted or stated.

Signature(s)

E Jenesky as T Nolan PhD Baines PT

MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]

Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328

LEVEL OF  
CARE

Inpatient

Outpatient

Last Name:

First Name:

MI:

Brown, Gregory

CDC # J-82241

DOB 8/26/65

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE ___/___/___ <input type="checkbox"/> Last TP ___/___/___ MH 1 <input type="checkbox"/> ___/___/___ Last MH 4 <input type="checkbox"/> ___/___/___		
Axis I	296.3	Major Depression D/O recurrent
Axis II		
Axis III		Hip problems
Axis IV		(current)
Axis V		GAF = 60 Describe basis.
V. Problem / Symptom List		
#1	Depressive Thoughts	
#2	Hip/Health problems with mobility	
#3		
VI. Inmate's Strength and Weakness, Goals Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
Tries to be positive		
Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input type="checkbox"/> GP <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
Was briefly off C3 but decompensated back on Rx (Remeron) since 7-27-04		
Signature(s) E. Jay T. Nolan PhD BA, MSW, PT		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: First Name: MI: <div style="text-align: center; font-size: 1.2em;">Brown, Gregory</div> <div style="text-align: right; font-size: 1.2em;">266</div> CDC # J-82241 DOB 8/26/65
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State of California, Department of Corrections: N/C / S Region, Service Area = B, Institution, HDSPTREATMENT PLAN PART TWO: PROBLEM → # \_\_\_\_\_ pg. \_\_\_\_\_ Today Date: 9/8/04☐ Initial Treatment Plan ☐ Update because \_\_\_\_\_ ☐ Re-justify, \_\_\_\_\_ weeks

Prob. #	Describe Problem:	Possible Completion	Date
	<u>Recurrent Mood D/O</u>		
		Next Review	Date
	Target Behavior(s):		
	<u>Depression</u>		
	Target Objective(s):		
	<u>↑ Mood</u>		
Date	Intervention (s) & Staff Assigned.	Frequency and Duration.	Results.
	<u>Case Mgmt</u>	<u>Weekly</u>	
	<u>Psychiatry</u>	<u>PRN</u>	
Signature(s) <u>B. Brown, PT T. Nolan E. Jay</u>			

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: _____ First Name: _____ MI: _____ <u>Brown, Gregory</u>
		CDC # <u>J-82241</u> <sup>267</sup> DOB <u>8/26/65</u>

State of California, Department of Corrections: N / C / S Region, Service Area = \_\_, Institution = \_\_

**MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number** \_\_\_\_\_ **Page 1 of 2**☐ Original ☐ Update ☐ Rejustification☐ CCCMS Annual Case Review**I. General Information:**

Arrival Date This Treatment Setting: \_\_/\_\_/\_\_

☐ CCCMS ☐ EOP ☐ MHC/Infirmary☐ PSU -- ☐ \_\_\_\_\_ week observation.

Anticipated Date of Transfer to GP: \_\_/\_\_/\_\_

Custody Level: I / II / III / IV / AdS / SHU

By: ☐ Team ☐ Individual Clinician☐ MH 6 ☐ C File ☐ Health Record☐ Unit Health Record ☐ MH 1☐ MH 4 ☐ Prior MH 2 \_\_/\_\_/\_\_

Today Date

10/1/04

Next Up Date

10/1/05

**II. Print Treatment Team Members****Position****Telephone & Extension**

<i>J. Jones MD</i>	Psychiatrist	559-992-8800 x7982
<i>K. Roney PhD</i>	Psychologist	
<i>S. Horne Psych Tech</i>	Nursing	
	Custody	

**III. Present Mental Status**Date *10/1/04* By *Sylvia Roney PhD* Title *Psychologist*A) Appearance ☐ WNL*6'5", w/ walker for hip problem*B) Behavior ☐ WNL*Polite*Speech ☐ WNLC) Mood ☐ WNL*Depressed*Sleep ☐ WNL*Impaired*Appetite ☐ WNLAffect ☐ WNL*Teary*

D) Cognition:

1) Fund of Information ☐ WNL2) Intellectual Functions ☐ WNL3) Organization of Thought ☐ WNL4) Association of Thought ☐ WNL5) Reality Contact ☐ WNL6) Thought Quality ☐ WNLE) Perception Disturbances (Hallucinations) ☐ None*Denies*F) Thought Content (Delusions) ☐ None*Denies*G) Sensorium (Orientation, Memory, Attention, Concentration) ☐ WNL*Impaired*H) Insight & Judgment ☐ WNL*Impaired*I) Interview Attitude ☐ WNL*Polite, cooperative*J) Current Suicidality ☐ None noted or stated.*Chronic ideations*K) Current Violence Risk ☐ None noted or stated.*BPD = SHU Teams*

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <i>Brown</i> First Name: <i>Gregory</i> MI: _____  CDC # <i>582241</i> DOB <i>8/26/65</i>
		268 268

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE <u>  </u> / <u>  </u> / <u>  </u> <input type="checkbox"/> Last TP <u>  </u> / <u>  </u> / <u>  </u> MH I <input type="checkbox"/> <u>  </u> / <u>  </u> / <u>  </u> Last MH 4 <input type="checkbox"/> <u>  </u> / <u>  </u> / <u>  </u>		
Axis I	e/o 296.30	Major Depressive d/o, Recurrent
	304.00	Poly Sub Abuse (mg, Alcohol)
Axis II	301.7	ASPD
Axis III		Hypertensive, Hip Problems, <sup>uses</sup> walker
Axis IV		(current) SHY / Unconcerned
Axis V	GAF = 65	Describe basis.
V. Problem / Symptom List		
#1	Depression	
#2		
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
+ = "cant do this"      F/M Verbal, bought		
Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input checked="" type="checkbox"/> Resistant		
VII. Discharge Plan To: <input checked="" type="checkbox"/> GCP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
after 1 yr 5x + med free		
Signature(s) Sylvia Lowery PhD		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <u>Brown</u> First Name: <u>Gregory</u> MI: <u>269</u>  CDC # <u>582241</u> DOB <u>8-20-65</u>
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State of California, Department of Corrections: N/C/S Region, Service Area = E, Institution = Cor

## MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number \_\_\_\_\_ Page 1 of 2

☐ Original ☐ Update ☐ Rejustification ☐ CCCMS Annual Case Review

## I. General Information:

Arrival Date This Treatment Setting: \_\_\_/\_\_\_/\_\_\_

☒ CCCMS ☐ EOP ☐ MHCBI/Infirmary☐ PSU -- ☐ \_\_\_\_\_ week observation.

Anticipated Date of Transfer to GP: \_\_\_/\_\_\_/\_\_\_

Custody Level: I / II / III / IV / AdS / SHU

By: ☐ Team ☒ Individual Clinician☐ MH 6 ☐ C File ☐ Health Record☐ Unit Health Record ☐ MH 1☐ MH 4 ☐ Prior MH 2 \_\_\_/\_\_\_/\_\_\_

Today Date

3/18/05

Next Up Date

6/18/05

## II. Print Treatment Team Members

## Position

## Telephone &amp; Extension

Salkowitz LCWCox ManagerGulvanLPTRamirezCO

## III. Present Mental Status

Date 3/18/05

By

Salkowitz

Title

LCWA) Appearance ☒ WNLB) Behavior ☒ WNLSpeech ☒ WNLC) Mood ☒ WNLSleep ☒ WNLAppetite ☒ WNLAffect ☒ WNL

## D) Cognition:

1) Fund of Information ☒ WNL2) Intellectual Functions ☒ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☒ WNL5) Reality Contact ☒ WNL6) Thought Quality ☒ WNLE) Perception Disturbances (Hallucinations) ☒ NoneF) Thought Content (Delusions) ☒ NoneG) Sensorium (Orientation, Memory, Attention, Concentration) ☒ WNLH) Insight & Judgment ☒ WNLI) Interview Attitude ☒ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☒ None noted or stated.MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]Part One: General, Team, MSE  
Diagnosis, Problems, Innate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328LEVEL OF  
CARECCM

inpatient

C Outpatient

Last Name:

First Name:

MI:

Brown

CDC #

18 22 41

DOB

8,26,65

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE ___/___/___ <input type="checkbox"/> Last TP ___/___/___ MH 1 <input type="checkbox"/> ___/___/___ Last MH 4 <input type="checkbox"/> ___/___/___		
Axis I	296.26	Major Depression in Remission
Axis II	799.90	Delusional
Axis III		None Reported
Axis IV		(current) Severe
Axis V		GAF = 72 Describe basis.
V. Problem / Symptom List		
#1	Depression - in remission	
#2		
#3		
VI. Inmate's Strength and Weakness, Goals      Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input		
Intelligent, articulate		
Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant		
VII. Discharge Plan To: <input checked="" type="checkbox"/> GIP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
When free of <sup>meds</sup> symptoms for one year		
Signature(s) <i>V.P. Salkowitz</i> V.P. SALKOWITZ, LCSW		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  <i>CCMS</i>  Inpatient  Outpatient	Last Name:      First Name:      MI:  <i>Brown</i>  <i>271</i>  CDC # <i>U82241</i> DOB <i>8,26,65</i>
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State of California, Department of Corrections: N / C / S Region, Service Area = \_\_, Institution = \_\_

MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number _____			Page 1 of 2
<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Update	<input type="checkbox"/> Rejustification	<input type="checkbox"/> CCCMS Annual Case Review
<b>I. General Information:</b> Arrival Date This Treatment Setting: <u>6/16/05</u> <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHC/Infirmary <input type="checkbox"/> PSU -- <input type="checkbox"/> _____ week observation. Anticipated Date of Transfer to GP: <u>   </u> / <u>   </u> / <u>   </u> Custody Level: I / II / III <input checked="" type="checkbox"/> IV / AdS / SHU		By: <input type="checkbox"/> Team <input type="checkbox"/> Individual Clinician <input type="checkbox"/> MH 6 <input type="checkbox"/> C File <input type="checkbox"/> Health Record <input type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1 <input type="checkbox"/> MH 4 <input type="checkbox"/> Prior MH 2 <u>   </u> / <u>   </u> / <u>   </u> Today Date <u>7/5/05</u> Next Up Date <u>   </u> / <u>   </u> / <u>   </u>	
<b>II. Print Treatment Team Members</b>			
<div style="display: flex; justify-content: space-between;"> <span>Position</span> <span>Telephone &amp; Extension</span> </div>			
<u>Emile Reed PhD</u>		[T.T. Leader]	
		[Case Manager]	
<b>III. Present Mental Status</b> Date <u>7/5/05</u> By <u>Emile Reed PhD</u> Title <u>Emile Reed, Ph.D., Clinical Psychologist</u>			
A) Appearance <input type="checkbox"/> WNL			
B) Behavior <input checked="" type="checkbox"/> WNL Speech <input type="checkbox"/> WNL			
C) Mood <input checked="" type="checkbox"/> WNL Sleep <input checked="" type="checkbox"/> WNL <u>4 hr</u> Appetite <input checked="" type="checkbox"/> WNL Affect <input checked="" type="checkbox"/> WNL			
D) Cognition: 1) Fund of Information <input type="checkbox"/> WNL 2) Intellectual Functions <input type="checkbox"/> WNL 3) Organization of Thought <input checked="" type="checkbox"/> WNL 4) Association of Thought <input checked="" type="checkbox"/> WNL 5) Reality Contact <input checked="" type="checkbox"/> WNL 6) Thought Quality <input checked="" type="checkbox"/> WNL			
E) Perception Disturbances (Hallucinations) <input checked="" type="checkbox"/> None			
F) Thought Content (Delusions) <input checked="" type="checkbox"/> None			
G) Sensorium (Orientation, Memory, Attention, Concentration) <input checked="" type="checkbox"/> WNL			
H) Insight & Judgment <input checked="" type="checkbox"/> WNL			
I) Interview Attitude <input checked="" type="checkbox"/> WNL			
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.			
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.			

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> <b>MH 2 [3/29/96]</b> Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <u>Brown</u> First Name: <u>Craig</u> MI: <u>272</u>  CDC # <u>J. 8 224 1</u> DOB <u>   </u> / <u>   </u> / <u>   </u>
--	---	---

c9 12/4

Mental Health Treatment Plan Part One:		Page 2 of 2
IV. DSM IV Numerical <input type="checkbox"/> Last MSE ___/___/___ <input type="checkbox"/> Last TP ___/___/___ MH 1 <input type="checkbox"/> ___/___/___ Last MH 4 <input type="checkbox"/> ___/___/___		
Axis I	396.9	Depression - re Bipolar disorder Rage reactions, poor impulse control at times
Axis II	301.7	ASPD
Axis III		Major orthopedic problems (vascular necrosis)
Axis IV		R/o closed head trauma sequelae
Axis V		(current) incarceration plus denial, upcoming surgery GAF = 50 Describe basis.
V. Problem / Symptom List		
#1	Anger / rage / depressive reactions	
#2		
#3		
VI. Inmate's Strength and Weakness, Goals		Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input
intelligence		completion of surgery
temper outbursts & denial		Treatment Readiness: <input type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input checked="" type="checkbox"/> Resistant
VII. Discharge Plan To: <input type="checkbox"/> GP <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH		
ENID REED, Ph.D., Clinical Psychologist		
Signature(s)		#
[Signature]		

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Inpatient  Outpatient	Last Name: <b>BROWN,</b> First Name: <b>GREG</b> MI:	273 CDC # <b>J-82241</b> DOB <b>8/26/65</b>

State of California, Department of Corrections: N / C / S Region, SA =           . Institution =            ☐ Male ☐ Female

**CONDENSED MENTAL HEALTH ASSESSMENT & TREATMENT SETTING TRANSFER:** Date 7/5/05  
Variety Use Include: Admission Intake, Transfer, Parole, Discharge, MHCB Screen & Assessment. Page 1 of 5

Current Setting: ☐ GP ☐ Ad Seg ☐ SHU ☐ RC ☒ CCCMS ☐ EOP ☐ PSU ☐ MHCB ☐ Other:           

I/M Ethnicity: Blk Non English Language:            Level: I / II / III / IV / AS / SHU  
CDC Arrival date: 5/10/05 CDC Release date: Life ☐ MH 1, MH 4, MH 7 Date:    /    /     
Inmate interviewed on: 7/5/05 Level of Cooperation: Not noted DDPS            -            ☐ Not Noted.

**I. Purpose for Condensed Mental Health Assessment:**

A. ☒ Condensed Initial Assessment (Intake) Form (May Replace or Delay MH 1 Assessment / Data Base.)  
☐ MH 1; ☐ MH 7; ☐ Bus Screening; ☐ Page 2 (Psychiatric History) as ☐ Update or ☐ Initial history

B. ☐ Transfer to New Setting Recommended DDPS Code Change To:            -             
☐ Return to Custody ☐ GP ☐ OSAP ☐ POC & Complete Page 5.  
☒ To Out-patient ☐ CCCMS  
☐ EOP: Was tele-fax used? yes ☐ no ☐; Was approval obtained? yes ☐ no ☐ Conditional ☐  
☐ PSU  
☐ To In-patient ☐ MHCB ☐ Infirmary: CTC pre-screening? yes ☐ no ☐ Details:             
☐ DMH ☐ Criminal History Supplemental Form needed. DMH Care Level → ☐ Intermediate ☐ Acute  
Describe referral methods:             
Describe current symptoms/concerns that indicate a need for Inpatient:           

Desired Inpatient Treatment outcome:           

Was Above: ☐ Intra or ☐ Inter Institution ☐ Other (Outside)            ☐ No ☐ Yes Transfer Chrono by           

C. ☐ Pre Parole Release (Complete page 5: MH 4> CCI> C&PR> Form 611> Parole Regional HQ & POC Clinician.)

D. ☐ Department of Correction Discharge. No CDC Follow Up. ☐ Inter State Compact to:            (state)  
☐ To Other Treatment Source:  
Name:            Telephone: (    )    -    FAX: (    )    -     
Address:             
☐ Consent to Release Specific Records, Coordinate with Health Records. ☐ QA Follow Up Plan Discussed Below

**II. Brief Narrative Summary:** ☐ Expanded on Insert-a-Page  
Arterial necrosis - bilateral hip replacement

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 Page: 1 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>	Last Name: <b>BROWN,</b> First Name: <b>GREG</b> MI: <b>274</b>
	Inpatient  Outpatient	CDC # <u>82241</u> DOB <u>8/24/65</u>

Condensed Mental Health Assessment & Treatment Setting Transfer:		Page 2 of 5
<b>III. MENTAL HEALTH &amp; HEALTH HISTORY:</b> <input type="checkbox"/> See Unit Health Record (If an item is normal, check normal or none. If a deviation, elaborate.)		
A. Developmental Problem <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	HS. 1 yr CC. <span style="float: right;"><input type="checkbox"/></span>	
B. Marital: circle <u>S</u> / M / D / W	6 13 22 <span style="float: right;"><input type="checkbox"/></span>	
C. Work History: <input type="checkbox"/> None <input type="checkbox"/> Some <input type="checkbox"/> Erratic <input checked="" type="checkbox"/> Extensive	automotive repair <span style="float: right;"><input type="checkbox"/></span>	
D. Mental Health History: <input type="checkbox"/> None known <input checked="" type="checkbox"/> Yes	<span style="float: right;"><input type="checkbox"/></span>	
E. Issues and Problems		
1. Psychiatric Hospitalization <input checked="" type="checkbox"/> None <input checked="" type="checkbox"/> Yes 2. Psychotropic Medication in the last 2 years <input type="checkbox"/> None <input checked="" type="checkbox"/> Yes 3. Outpatient Treatment <input checked="" type="checkbox"/> None <input type="checkbox"/> Yes 4. MH Treatment while incarcerated/paroled <input type="checkbox"/> None <input checked="" type="checkbox"/> Yes 5. History of Substance Abuse <input type="checkbox"/> None <input type="checkbox"/> Yes 6. Release of information requested <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
F. Suicidal Behavior <input type="checkbox"/> Denies History <input type="checkbox"/> None Found <input type="checkbox"/> Present Cx 35 - tried to hang self - frustrated, <i>took for 10 days</i> <span style="float: right;"><input type="checkbox"/></span>		
G. Violent Behavior <input type="checkbox"/> Denies <input checked="" type="checkbox"/> History <input type="checkbox"/> None Found <input type="checkbox"/> Present <i>voluntary manslaughter, attempted murder</i> <span style="float: right;"><input type="checkbox"/></span>		
H. Discuss Significant Medical History (Head Traumas, HIV, Seizures) <input checked="" type="checkbox"/> None Found <input type="checkbox"/> Present <i>severe TB, severe illnesses</i> <i>has nightmares daily - stated no autonomous signs</i> <span style="float: right;"><input type="checkbox"/></span>		
I. Other or Additional Comments: <span style="float: right;"><input type="checkbox"/></span> <i>problems with authority figures - likes autonomy - argues</i> <i>refused to take temporary test - has been a clerk in past</i> <i>1 M has difficulty remembering</i>		

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 Page: 2 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient <input checked="" type="checkbox"/> Outpatient	Last Name: <u>Brown</u> First Name: <u>Greg</u> MI: <u>575</u>  CDC # <u>1-8-2241</u> DOB <u>1-1-</u>
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Condensed Mental Health Assessment & Treatment Setting Transfer:				Page 3 of 5
IV. Present Mental Status		Date <u>7/5/05</u>		
A) Appearance <input checked="" type="checkbox"/> WNL				
B) Behavior <input checked="" type="checkbox"/> WNL		Speech <input checked="" type="checkbox"/> WNL		
C) Mood <input checked="" type="checkbox"/> WNL		Sleep <input checked="" type="checkbox"/> WNL	Appetite <input checked="" type="checkbox"/> WNL	Affect <input checked="" type="checkbox"/> WNL
D) Cognition: <span style="float: right;"><i>refusing of meds</i></span>				
1) Fund of Information <input checked="" type="checkbox"/> WNL				
2) Intellectual Functions <input checked="" type="checkbox"/> WNL				
3) Organization of Thought <input checked="" type="checkbox"/> WNL				
4) Association of Thought <input checked="" type="checkbox"/> WNL				
5) Reality Contact <input checked="" type="checkbox"/> WNL				
6) Thought Quality <input checked="" type="checkbox"/> WNL				
E) Perception Disturbances (Hallucinations) <input checked="" type="checkbox"/> None				
F) Thought Content (Delusions) <input checked="" type="checkbox"/> None				
G) Sensorium (Orientation, Memory, Attention, Concentration) <input checked="" type="checkbox"/> WNL				
H) Insight & Judgment <input checked="" type="checkbox"/> WNL <span style="float: right;"><i>own worst enemy</i></span>				
I) Interview Attitude <input checked="" type="checkbox"/> WNL <span style="float: right;"><i>good</i></span>				
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.				
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.				

V. DSM IV Numerical - Transferring / Discharge / Provisional (Discussion, diagnostic certainty.)		
Axis I	<u>296.9</u>	<i>Depression <del>episodic</del> / Bipolar</i>
	<u>304.8</u>	<i>Polysubstance dependence</i>
	<u>301.7</u>	<i>ASPD</i>
Axis II		<i>Hx violent behavior - 1/4 denies</i>
		<i>R/TB</i>
Axis III		<i>'vascular necrosis' requires to had</i>
Axis IV	(current)	<i>Incarceration, approaching surgery</i>
Axis V	GAF = <u>50</u>	(Discuss basis.)
Discussion and Diagnostic Certainty:		
<input type="checkbox"/> Dual Diagnosis		

CONDENSED MENTAL HEALTH ASSESSMENT & TREATMENT SETTING TRANSFER & PAROLE/DISCHARGE FORM MH 4 Page: 3 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	LEVEL OF CARE   Inpatient  Outpatient	Last Name: <u>Brown</u> First Name: <u>Greg</u> MI: <u>276</u>  CDC # <u>1-82441</u> DOB <u>8/26/65</u>
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DOB 4, 1, 79

State of California, Department of Corrections: N / C / S Region, SA = , Present Institution =

## VIII. PAROLE DATA: Condensed Mental Health Assessment &amp; Parole Transfer

Page 5 of 5

Date Completed: \_\_\_/\_\_\_/\_\_\_ MH> CCI> C&PR> Form 611>Parole HQ>POC DDPS Noted ☐ Yes ☐ No

Allergies:

Anticipated Date of Discharge:

Other:

Medication Provided at Discharge ☐ None ☐ See page 3

Name of Medication	Dose size	# of Tablets	Name of Medication	Dose size	# of Tablets

Housing Plans:

Reside with:

Relationship:

Address:

Telephone: ( )

In whose name is telephone listed?

Other housing issues:

## Suggested Aftercare Approach Plan:

Completed By CDC Clinician: \_\_\_\_\_ Clinician Title: \_\_\_\_\_ Date: \_\_\_/\_\_\_/\_\_\_

Clinician Signature: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_ - \_\_\_\_\_ Ext. \_\_\_\_\_

CCI Name: \_\_\_\_\_ Telephone: ( ) \_\_\_\_\_ - \_\_\_\_\_ Ext. \_\_\_\_\_ C&amp;PR Confirmed by: \_\_\_\_\_

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> <b>MH 4</b> Page: 5 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: _____ First Name: _____ MI: _____  <div style="text-align: right;">278</div> CDC # _____ DOB ___/___/___
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## Mental Health Treatment Plan Part One:

Page 2 of 2

IV. DSM IV Numerical ☒ Last MSE 5/15/07 ☐ Last TP \_/\_/\_ MH I ☐ \_/\_/\_ Last MH 4 ☒ 7/5/05

Axis I	311	Depressive disorder NOS.
Axis II	799.9	<del>NO</del> <sup>known</sup> <del>Diagnosis</del> Diagnosis Deferred on Axis II.
Axis III		Chronic Hip Pain.
Axis IV		(current) <u>Incarceration</u>
Axis V		GAF = <u>60</u> Describe basis.

## V. Problem / Symptom List

#1

Depression.

#2

#3

## VI. Inmate's Strength and Weakness, Goals

Inmate's Treatment Goals, ☐ MH 6 Input

S - Communication skills.

W - Lack of attention.

Treatment Readiness: ☒ Amenable ☒ Motivated ☐ ResistantVII. Discharge Plan To: ☒ GP ☐ CCCMS ☐ EOP ☐ MHCB ☐ DMH

to return to GP when in full remission of symptoms and medications free for 6 months period.

Signature(s)

ALLIEDA, Ph.D.  
PSYCHOLOGIST  
CONF/CP

N. Starnant

Gregory J. Brown

MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]

Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328

## LEVEL OF CARE

cccms

Inpatient

Outpatient

Last Name:

First Name:

MI:

BROWN, GREGORY

CDC # J. 82241 DOB 8/26/65

279

State of California, Department of Corrections: N / C / S Region, SA = _____, Institution = _____ <input type="checkbox"/> Male <input type="checkbox"/> Female		
<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER:</b>		Date <u>9/24/05</u>
Variety Use Include: Admission Intake, Transfer, Parole, Discharge, MHCB Screen & Assessment.		Page 1 of 5
Current Setting: <input type="checkbox"/> GP <input type="checkbox"/> Ad Seg <input type="checkbox"/> SHU <input type="checkbox"/> RC <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> PSU <input type="checkbox"/> MHCB <input type="checkbox"/> Other: _____		
I/M Ethnicity: <u>Black</u>	Non English Language: _____	Level: I / II / III / IV / AS / SHU
CDC Arrival date: _____	CDC Release date: <u>55-Life</u>	<input type="checkbox"/> MH 1, MH 4, MH 7 Date: ____ / ____ / ____
Inmate interviewed on: <u>9/24/05</u>	Level of Cooperation: <u>good</u>	DDPS <u>DDPS</u> <input type="checkbox"/> Not Noted.

**I. Purpose for Condensed Mental Health Assessment:**A. ☐ Condensed Initial Assessment (Intake) Form (May Replace or Delay MH 1 Assessment / Data Base.)☐ MH 1; ☐ MH 7; ☐ Bus Screening; ☐ Page 2 (Psychiatric History) as ☐ Update or ☐ Initial historyB. ☐ Transfer to New Setting Recommended DDPS Code Change To: \_\_\_\_\_☐ Return to Custody ☐ GP ☐ OSAP ☐ POC & Complete Page 5.☐ To Out-patient ☐ CCCMS☐ EOP: Was tele-fax used? yes ☐ no ☐; Was approval obtained? yes ☐ no ☐ Conditional ☐☐ PSU☐ To In-patient ☐ MHCB ☐ Infirmary: CTC pre-screening? yes ☐ no ☐ Details: \_\_\_\_\_☐ DMH ☐ Criminal History Supplemental Form needed. DMH Care Level → ☐ Intermediate ☐ Acute

Describe referral methods: \_\_\_\_\_

Describe current symptoms/concerns that indicate a need for Inpatient: \_\_\_\_\_

Desired Inpatient Treatment outcome: \_\_\_\_\_

Was Above: ☐ Intra or ☐ Inter Institution ☐ Other (Outside) \_\_\_\_\_ ☐ No ☐ Yes Transfer Chrono by \_\_\_\_\_C. ☐ Pre Parole Release (Complete page 5: MH 4> CCI> C&PR> Form 611> Parole Regional HQ & POC Clinician.)D. ☐ Department of Correction Discharge. No CDC Follow Up. ☐ Inter State Compact to: \_\_\_\_\_ (state)☐ To Other Treatment Source:

Name: \_\_\_\_\_ Telephone: ( ) \_\_\_\_ - \_\_\_\_ FAX: ( ) \_\_\_\_ - \_\_\_\_

Address: \_\_\_\_\_

☐ Consent to Release Specific Records, Coordinate with Health Records. ☐ QA Follow Up Plan Discussed Below.**II. Brief Narrative Summary:** ☐ Expanded on Insert-a-Page

Done 9 Years, 2nd Incarceration, Conspiracy to Commit  
Murder, direct involvement & time. This corresponds  
w/ mo. Family all in New Orleans. This 1st time  
involuntary manslaughter for self defense  
This speaks of mood disorders  
SHU Team BPO

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 <u>42242</u> Page: 1 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <u>Brion</u> First Name: <u>Gregory</u> MI: <u>280</u>  CDC # <u>582241</u> DOB <u>8/26/65</u>
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Condensed Mental Health Assessment & Treatment Setting Transfer:		Page 2 of 5
<b>III. MENTAL HEALTH &amp; HEALTH HISTORY:</b> <input type="checkbox"/> See Unit Health Record _____ (If an item is normal, check normal or none. If a deviation, elaborate.)		
A. Developmental Problem <input type="checkbox"/> No <input type="checkbox"/> Yes	<i>He good no dev problems</i> <input type="checkbox"/>	
B. Marital: circle <input checked="" type="radio"/> S M / D / W	<i>2 children 21, and 12 (daughters)</i> <input type="checkbox"/>	
C. Work History: <input type="checkbox"/> None <input type="checkbox"/> Some <input type="checkbox"/> Erratic <input type="checkbox"/> Extensive	<i>auto mechanic</i> <input type="checkbox"/>	
D. Mental Health History: <input type="checkbox"/> None known <input type="checkbox"/> Yes	<input type="checkbox"/>	
E. Issues and Problems	<i>outside</i> <input type="checkbox"/>	
1. Psychiatric Hospitalization <input type="checkbox"/> None <input type="checkbox"/> Yes		
2. Psychotropic Medication in the last 2 years <input type="checkbox"/> None <input checked="" type="checkbox"/> Yes	<i>was taking Risperidone for depression</i>	
3. Outpatient Treatment <input type="checkbox"/> None <input type="checkbox"/> Yes	<i>eratic outpatient</i>	
4. MH Treatment while incarcerated/paroled <input type="checkbox"/> None <input type="checkbox"/> Yes		
5. History of Substance Abuse <input type="checkbox"/> None <input type="checkbox"/> Yes	<i>mg/alcohol</i>	
6. Release of information requested <input type="checkbox"/> No <input type="checkbox"/> Yes		
F. Suicidal Behavior <input type="checkbox"/> Denies History <input type="checkbox"/> None Found <input type="checkbox"/> Present	<input type="checkbox"/>	
	<i>Heung self 2 yrs ago found by others</i>	
G. Violent Behavior <input type="checkbox"/> Denies History <input type="checkbox"/> None Found <input type="checkbox"/> Present	<input type="checkbox"/>	
H. Discuss Significant Medical History (Head Traumas, HIV, Seizures) <input type="checkbox"/> None Found <input type="checkbox"/> Present	<input type="checkbox"/>	
	<i>Needs 2 hip replacements</i>	
	<i>Hypertension</i>	
I. Other or Additional Comments:	<input type="checkbox"/>	
	<i>* I/m back to 3CM 2 mo ago due to mood</i>	
	<i>Chronic SI from 1999</i>	

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 Page: 2 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <i>Brown</i> First Name: <i>Gregory</i> MI: <i>281</i>  CDC # <i>5-82241</i> DOB <i>8/26/65</i>
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Condensed Mental Health Assessment & Treatment Setting Transfer:		Page 3 of 5
<b>IV. Present Mental Status</b> Date <u>9/24/09</u>		
A) Appearance <input type="checkbox"/> WNL	<u>6'5" Disabled by hip problems</u>	
B) Behavior <input checked="" type="checkbox"/> WNL	Speech <input type="checkbox"/> WNL	
C) Mood <input type="checkbox"/> WNL	Sleep <input type="checkbox"/> WNL	Appetite <input type="checkbox"/> WNL
<u>Depressed, Tearful</u> <u>Impaired</u> <u>Depressed</u> <u>Tearful</u>		
D) Cognition:		
1) Fund of Information <input type="checkbox"/> WNL		
2) Intellectual Functions <input type="checkbox"/> WNL		
3) Organization of Thought <input type="checkbox"/> WNL		
4) Association of Thought <input type="checkbox"/> WNL		
5) Reality Contact <input type="checkbox"/> WNL		
6) Thought Quality <input type="checkbox"/> WNL		
E) Perception Disturbances (Hallucinations) <input type="checkbox"/> None		
F) Thought Content (Delusions) <input type="checkbox"/> None		
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL		
<u>Impaired</u>		
H) Insight & Judgment <input type="checkbox"/> WNL		
<u>Impaired</u>		
I) Interview Attitude <input type="checkbox"/> WNL		
<u>Cooperative</u>		
J) Current Suicidality <input type="checkbox"/> None noted or stated.		
<u>Chronic, intermittent SI</u>		
K) Current Violence Risk <input type="checkbox"/> None noted or stated.		
<u>not yet</u>		

V. DSM IV Numerical - Transferring / Discharge / Provisional (Discussion, diagnostic certainty)		
Axis I	<u>2/0</u>	<u>Major Depressive D/O, Recurrent</u>
	<u>304.80</u>	<u>Polysubstance Abuse (mg/alcohol)</u>
Axis II	<u>301.7</u>	<u>ASPD</u>
Axis III	<u>Hypertensive, Hip Problems</u>	
Axis IV	(current) <u>Sty/Concentration</u>	
Axis V	GAF = <u>65</u> (Discuss basis.)	
Discussion and Diagnostic Certainty:		
<input type="checkbox"/> Dual Diagnosis		

<b>CONDENSED MENTAL HEALTH ASSESSMENT &amp; TREATMENT SETTING TRANSFER &amp; PAROLE/DISCHARGE FORM</b> MH 4 Page: 3 of 5 [3/28/96] Expand With MH Insert-a-Page Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient  Outpatient	Last Name: <u>Brown</u> First Name: <u>Gregory</u> MI: <u>JR</u>  CDC # <u>5-82241</u> DOB <u>8.26.65</u>
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State of California, Department of Corrections: N / C / S Region, Service Area = C, Institution = CSATF**MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number**                      **Page 1 of 2**☐ Original ☒ Update ☐ Rejustification ☐ CCCMS Annual Case Review

<b>I. General Information:</b> Arrival Date This Treatment Setting: <u>6/9/06</u> <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB/Infirmary <input type="checkbox"/> PSU -- <input type="checkbox"/> <u>                    </u> week observation. Anticipated Date of Transfer to GP: <u>1/1/</u> Custody Level: I / II / III / <u>IV</u> / AdS / SHU		By: <input checked="" type="checkbox"/> Team <input type="checkbox"/> Individual Clinician <input type="checkbox"/> MH 6 <input checked="" type="checkbox"/> C File <input type="checkbox"/> Health Record <input checked="" type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1 <input type="checkbox"/> MH 4 <input checked="" type="checkbox"/> Prior MH 2 <u>4/5/06</u>	Today Date <u>6/29/06</u> Next Up Date <u>6/29/07</u>
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II. Print Treatment Team Members	Position	Telephone & Extension
<u>E. Meeker PhD</u>	[T.T. Leader]	<u>5538</u>
<u>Mr Dean CCI</u>		

**III. Present Mental Status** Date 6/13/06 By E. Meeker PhD Title Staff Psychologist

A) Appearance <input checked="" type="checkbox"/> WNL			
B) Behavior <input checked="" type="checkbox"/> WNL		Speech <input type="checkbox"/> WNL	
C) Mood <input checked="" type="checkbox"/> WNL <u>Depressed</u>	Sleep <input type="checkbox"/> WNL <u>4-5</u>	Appetite <input type="checkbox"/> WNL <u>Poor</u>	Affect <input checked="" type="checkbox"/> WNL
D) Cognition:			
1) Fund of Information <input checked="" type="checkbox"/> WNL			
2) Intellectual Functions <input checked="" type="checkbox"/> WNL			
3) Organization of Thought <input checked="" type="checkbox"/> WNL			
4) Association of Thought <input checked="" type="checkbox"/> WNL			
5) Reality Contact <input checked="" type="checkbox"/> WNL			
6) Thought Quality <input checked="" type="checkbox"/> WNL			
E) Perception Disturbances (Hallucinations) <input checked="" type="checkbox"/> None			
F) Thought Content (Delusions) <input checked="" type="checkbox"/> None			
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL <u>Attention &amp; Memory poor last year</u>			
H) Insight & Judgment <input checked="" type="checkbox"/> WNL			
I) Interview Attitude <input checked="" type="checkbox"/> WNL			
J) Current Suicidality <input checked="" type="checkbox"/> None noted or stated.			
K) Current Violence Risk <input checked="" type="checkbox"/> None noted or stated.			

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient <u>Outpatient</u>	Last Name: <u>Brown</u>  First Name: <u>                    </u> MI: <u>283</u>  CDC # <u>582241</u> DOB <u>1/1/</u>
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## Mental Health Treatment Plan Part One:

Page 2 of 2

IV. DSM IV Numerical ☐ Last MSE   /  /   ☐ Last TP   /  /   MH 1 ☐   /  /   Last MH 4 ☐   /  /  

Axis I	371	Depression Disorder NOS
Axis II	799.9	Deferred
Axis III		Chronic Hip Pain
Axis IV		(current) Incarceration
Axis V		GAF = <u>60</u> Describe basis.

## V. Problem / Symptom List

#1	Depression
#2	
#3	

## VI. Inmate's Strength and Weakness, Goals

Inmate's Treatment Goals, ☐ MH 6 Input

Endurance

Treatment Readiness: ☐ Amenable ☐ Motivated ☒ ResistantVII. Discharge Plan To: ☒ GP ☐ CCCMS ☐ EOP ☐ MHCB ☐ DMHIf he remains ~~free~~ & 5/5 free x 6 months. *(Signature)*

Signature(s)

*(Signature)* *Edith L PhD*

<b>MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION</b> MH 2 [3/29/96] Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information See W & I Code, Section 5328	<b>LEVEL OF CARE</b>  Inpatient <input checked="" type="checkbox"/> <b>Outpatient</b>	Last Name: <u>Brown</u> First Name: <u>  </u> MI: <u>  </u> CDC # <u>782241</u> DOB <u>  </u> / <u>  </u> / <u>  </u>
	284	

State of California, Department of Corrections, Institution: CSP, Sacramento

MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number:		Page 1 of 3
<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Update	<input type="checkbox"/> Rejustification
		<input type="checkbox"/> CCCMS Annual Case Review

I. General Information: Arrival Date This Treatment Setting:  <input checked="" type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHC/Infirmary <input type="checkbox"/> PSU <input type="checkbox"/> _____ week observation Anticipated Date of Transfer to GP: _____	By: <input checked="" type="checkbox"/> Team <input type="checkbox"/> Individual Clinician <input type="checkbox"/> MH 6 <input type="checkbox"/> C File <input type="checkbox"/> Health Record <input type="checkbox"/> Unit Health Record <input type="checkbox"/> MH 1 <input type="checkbox"/> MH 4 <input type="checkbox"/> Prior MH 2 _____	Today's Date <u>12/8/06</u> Next Up Date <u>3/8/07</u>
Custody Level: I / II / III / <u>IV</u> / AdSeg / SHU		

II. Print Treatment Team Members	Position	Telephone & Extension
M. Hillary, PhD	Clinical Psychologist	(916) 985-8610 x8410
M. Moghaddas, MD	Psychiatrist	x6535
J. Brown, PsyD	<i>Clinical Psychologist</i>	x8413
<del>A. Zimmer, LCSW</del>	<del>Licensed Clinical Social Worker</del>	<del>x6159</del>
Greer	CCI	x 6061

III Present Mental Status	Date: <u>12/8/06</u>	By: <u>M. Hillary, PhD.</u>	Title: <u>Clinical Psychologist</u>
A) Appearance <input type="checkbox"/> WNL <i>mobility impaired vest, walker</i>			
B) Behavior <input checked="" type="checkbox"/> WNL Speech <input checked="" type="checkbox"/> WNL			
C) Mood <input type="checkbox"/> WNL <i>depressed</i> Sleep <input type="checkbox"/> WNL <i>cl ↓ sleep</i> Appetite <input type="checkbox"/> WNL <i>cl no appetite</i> Affect <input checked="" type="checkbox"/> WNL			
D) Cognition: 1) Fund of Information <input type="checkbox"/> WNL 2) Intellectual Functions <input type="checkbox"/> WNL 3) Organization of Thought <input type="checkbox"/> WNL 4) Association of Thought <input type="checkbox"/> WNL 5) Reality Contact <input type="checkbox"/> WNL 6) Thought Quality <input type="checkbox"/> WNL <div style="float: right; text-align: right;"> <math>6 + 3 + 2 = 11</math>  <math>9 - 4 = 5</math>  <i>"world"</i>  <i>"draw"</i> </div>			
E) Perception Disturbances (Hallucinations) <input type="checkbox"/> None			
F) Thought Content (Delusions) <input type="checkbox"/> None			
G) Sensorium (Orientation, Memory, Attention, Concentration) <input type="checkbox"/> WNL			
H) Insight & Judgment <input checked="" type="checkbox"/> WNL			
I) Interview Attitude <input checked="" type="checkbox"/> WNL			
J) Current Suicidality <input type="checkbox"/> None noted or stated <i>none current</i>			
K) Current violence Risk <input type="checkbox"/> None noted or stated <i>hx</i>			

MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 (10/20/99) Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information SEE W & I Code, Section 5328	LEVEL OF CARE  CCCMS ASU Outpatient	Last Name: <u>Brown</u> First Name: <u>Gregory</u> CDC # <u>J 82241</u> DOB: <u>285</u>
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## Mental Health Treatment Plan Part One:

Page 2 of 3

IV. DSM IV	Numerical	<input type="checkbox"/> Last MSE	<input type="checkbox"/> Last TP	<input type="checkbox"/> MH 1	<input type="checkbox"/> Last MH 4
Axis I	311 Depressive Disorder NOS				
Axis II	301.7 ASPD				
Axis III	See UHR				
Axis IV	CURRENT INCARCERATION				(current) _____
Axis V	BASED ON CURRENT MENTAL STATUS EXAMINATION				GAF = _____ Describe basis 100

V. Problem/Symptom List
#1 faces bilateral hip replacements
#2
#3

VI. Inmate's Strength and Weakness, Goals	Inmate's Treatment Goals, <input type="checkbox"/> MH 6 Input
intelligent	
PSYCH MEDS:	Treatment Readiness: <input checked="" type="checkbox"/> Amenable <input type="checkbox"/> Motivated <input type="checkbox"/> Resistant
no meds per pt (no UHR, flimsy file)	

VII. Discharge Plan To: <input checked="" type="checkbox"/> GP <input type="checkbox"/> CCCMS <input type="checkbox"/> EOP <input type="checkbox"/> MHCB <input type="checkbox"/> DMH
EVENTUAL DISCHARGE TO GENERAL POPULATION. CONTINUE CCCMS LEVEL OF CARE.

Signature(s)	M. Hillary, PhD <i>M. Hillary, PhD</i>
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MENTAL HEALTH TREATMENT PLANS, UPDATES, REJUSTIFICATION MH 2 (10/20/99) Part One: General, Team, MSE Diagnosis, Problems, Inmate Strengths Part Two: Problem Pages -- Results Use Insert-a-Page of MH 1 Confidential Client/Patient Information SEE W & I Code, Section 5328	LEVEL OF CARE  CCCMS ASU Outpatient	Last Name:	First Name:
		Brown	Gregory
		CDC #	DOB:
		J 82241	

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State of California, Department of Corrections: N/C/S Region, Service Area = C, Institution = CSATF/SP

**MENTAL HEALTH TREATMENT PLAN: Sequential Part One Identifier Number 0 1 Page 1 of 2**☐ Original ☐ Update ☐ Rejustification ☒ CCCMS Annual Case Review**I. General Information:**

Arrival Date This Treatment Setting: \_\_\_/\_\_\_/\_\_\_

☒ CCCMS ☐ EOP ☐ MHC/Infirmity☐ PSU -- ☐ \_\_\_ week observation.

Anticipated Date of Transfer to GP: \_\_\_/\_\_\_/\_\_\_

By: ☒ Team ☒ Individual Clinician☐ MH 6 ☒ C File ☐ Health Record☒ Unit Health Record ☐ MH 1☒ MH 4 ☒ Prior MH 2 6/29/06

Today Date

05/16/07

Next Up Date

05/15/08Custody Level: I / II / III / ☒ IV AdS / SHU**II. Print Treatment Team Members****Position****Telephone & Extension**

E. De Almeida, PhD

Psychologist

(559) 992-7100 ext. 5533

H.R. Forness, MD

Psychiatrist

" "

L. Gonzalez

CCI

" "

**III. Present Mental Status** Date 5/15/2007 By E. De Almeida, PhD Title PsychologistA) Appearance ☐ WNLB) Behavior ☒ WNLSpeech ☒ WNLC) Mood ☐ WNLSleep ☐ WNLAppetite ☒ WNLAffect ☒ WNLD) Cognition: euphymic1) Fund of Information ☒ WNL2) Intellectual Functions ☐ WNL3) Organization of Thought ☒ WNL4) Association of Thought ☐ WNL5) Reality Contact ☐ WNL6) Thought Quality ☐ WNLE) Perception Disturbances (Hallucinations) ☐ NoneF) Thought Content (Delusions) ☒ NoneG) Sensorium (Orientation, Memory, Attention, Concentration) ☐ WNLH) Insight & Judgment ☒ WNLI) Interview Attitude ☒ WNLJ) Current Suicidality ☒ None noted or stated.K) Current Violence Risk ☒ None noted or stated.**MENTAL HEALTH  
TREATMENT PLANS,  
UPDATES, REJUSTIFICATION  
MH 2 [3/29/96]**Part One: General, Team, MSE  
Diagnosis, Problems, Inmate Strengths  
Part Two: Problem Pages -- Results  
Use Insert-a-Page of MH 1  
Confidential Client/Patient Information  
See W & I Code, Section 5328**LEVEL OF  
CARE**CCCMS  
InpatientOutpatient

Last Name:

First Name:

MI:

BROWN, GREGORY

CDC # J- 82241DOB 8/26/65

<input type="checkbox"/> Initial		<input type="checkbox"/> Update		BiWeekly MHC Review		<input type="checkbox"/> Quarterly		Review		<input checked="" type="checkbox"/> Annual Review	
<b>I. General Information</b>				Current Level of Care: <input type="checkbox"/> NONE <input checked="" type="checkbox"/> CCCMS				TODAY'S DATE			
Treatment Setting: <u>6/200 SATF</u>				<input type="checkbox"/> EOP <input type="checkbox"/> MHC <input type="checkbox"/> OTHER				<u>4/30/08</u>			
Arrival Date This Treatment Setting: <u>6/1/2005</u>				Current Housing: <input type="checkbox"/> RC <input checked="" type="checkbox"/> GP <input type="checkbox"/> CTC				NEXT UPDATE			
From: <u>Concoran</u>				<input type="checkbox"/> ASU <input type="checkbox"/> PSU <input type="checkbox"/> SHU <input type="checkbox"/> OTHER:				<u>4/29/08</u>			
Custody Level: I / II / III / <u>IV</u> AdSeg / SHU				EPRD:							
Date Reviewed:		Initials:		Date:		Initials:		Date:		Initials:	
<b>II. CLINICAL SUMMARY</b>											
<p><u>I/m is a 42 year old AA male w a history of major Depression.</u>  <u>I/m is not currently on psych meds and symptoms seem to be</u>  <u>moderate. (depressed mood-daily; anhedonia, ↓ energy, ↓ concentration,</u>  <u>poor sleep &amp; appetite) I/m declined referral to psych.</u></p>											
<b>III. PROBLEM LIST</b>											
Number	Problem	Intervention/Clinician	Goal	Progress / Date							
1	depression	1:1 CM x 90 days/prn	↓ Sx of depression from daily to no more than 3x/wk in the next year.								
		1:1 psych MD - as needed.									
		Exercise, Per I/m report	2-3x/wk.								
		Group Therapy	I/m on waitlist for depression gr.								
<b>IV. PSYCHOTROPIC MEDICATION</b>											
Number	Problem/Target Symptom	Medication	Goal	Progress / Date							
	None										
<b>V. CURRENT RISK FACTORS/BEHAVIORAL ALERTS:</b>											
				<input type="checkbox"/> Suicidal		<input type="checkbox"/> Self Injurious		<input type="checkbox"/> Assaultive		<input type="checkbox"/> Keyhea	
See Form _____ Dated _____				For Detailed Description							
Summary:											
<b>VI. RECOMMENDED HOUSING:</b>											
				<input type="checkbox"/> Single Cell		<input checked="" type="checkbox"/> Double Cell		<input type="checkbox"/> No Recommendation			
<b>VII. TRANSFER/DISCHARGE TO:</b>											
				<input checked="" type="checkbox"/> Non-MHSDS		<input type="checkbox"/> CCCMS		<input type="checkbox"/> EOP		<input type="checkbox"/> MHC	
				<input type="checkbox"/> APP		<input type="checkbox"/> ICF		<input type="checkbox"/> DTP		<input type="checkbox"/> Parole	
<u>When symptoms remit.</u>											
INSTITUTION		CLINICIAN									
<u>SATF</u>		<u>C. Buenate, Psy.D.</u>									
INMATE BED NUMBER		DATE		Name (Last, First, MI), CDC Number, DOB							
<u>104L</u>		<u>4/30/08</u>									

MENTAL HEALTH TREATMENT PLAN  
CDCR 7388 (Rev. 06/06)

Confidential Client/Patient Information

Page 1 of 6

Brown, Gregory

J82241

8/26/05

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GREGORY L. BROWN,	)	No. C 08-3501 MMC (PR)
	)	
Petitioner,	)	<b>ORDER ADMINISTRATIVELY</b>
	)	<b>CLOSING CASE; DIRECTIONS TO</b>
v.	)	<b>CLERK</b>
	)	
KEN CLARK, Warden,	)	
	)	
Respondent.	)	

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On July 22, 2008, two habeas corpus actions were opened in this court as the result of filings received from petitioner, a California prisoner proceeding pro se. The first action, C 08-3502, is a petition for a writ of habeas corpus, in which petitioner alleges that in 1995, in the Superior Court of San Francisco County, he was wrongly convicted of conspiracy to commit murder and attempted murder. (See Brown v. Clark, C 08-3502 MMC (PR)). On July 28, 2008, the Court dismissed the petition as a second or successive petition, pursuant to 28 U.S.C. § 2244(b).

The above-titled action is the second action, which is comprised of two documents. The first document is titled “Greg’s Declaration and Memorandum in Support of Good Cause to File a Late Petition for Writ of Habeas Corpus Due to Newly Discovered Evidence and a Claim of Actual Innocence” (“Declaration”); the second document consists of exhibits in support of said Declaration. In his Declaration, petitioner explains that he is seeking leave to file, on grounds of newly discovered evidence, a “late” petition challenging his 1995


1 conviction for conspiracy to commit murder and attempted murder.

2 It is clear from the Declaration that petitioner intended that both the Declaration and  
3 supporting exhibits be filed with his petition in Case No. C 08-3502. Accordingly, as the  
4 instant action was opened in error, the Clerk of the Court is hereby DIRECTED to  
5 administratively close the case and to file the documents from the instant action in case  
6 number C 08-3502.<sup>1</sup>

7 Because the instant action was opened in error, no filing fee is due.

8 IT IS SO ORDERED.

9 DATED: July 30, 2008

10   
11 MAXINE M. CHESNEY  
12 United States District Judge  
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26 \_\_\_\_\_  
27 <sup>1</sup>Case No. C 08-3502 remains closed. The filing of the above-referenced documents  
28 in Case No. C 08-3502 is an administrative matter and has no effect on the Court's dismissal  
of the petition therein as a second or successive petition.